

UNITED STATES TRADE REPRESENTATIVE
(USTR)
TRADE POLICY STAFF COMMITTEE

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PUBLIC HEARINGS

RE:

U.S. CENTRAL AMERICAN Free Trade Agreement

+ + + + +

TUESDAY

NOVEMBER 19, 2002

+ + + + +

1724 F STREET, N.W.
WASHINGTON, D.C.

+ + + + +

9:00 A.M.

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PANELISTS:

CARMEN SURO-BREDIE, CHAIR, USTR
DAN FANTOZZI, USTR
SHARON SYDOW, USTR
BUD CLATANOFF, USTR
CATHY SAUCEDA, CUSTOMS
CARMEN SANMIGUEL, TREASURY
JANET HEINZEN, COMMERCE
MARK SIEGELMAN, COMMERCE
DAN LEAHY, USITC
BRENDA FREEMAN, AGRICULTURE
BARBARA BOWIE-WHITMAN, STATE
CHARLOTTE ROE, STATE
BETSY WHITE, LABOR

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(9:10 a.m.)

CHAIRPERSON SURO-BREDIE: This hearing will come to order. This hearing is being conducted by the Trade Policy Staff Committee, an interagency body chaired by the Office of the U.S. Trade Representative.

In addition to USTR today there are representatives from the Departments of Agriculture, Commerce, Labor, State, and Treasury, including the U.S. Customs Service and the U.S. International Trade Commission. Many members of the USTR working on this negotiation will be present.

The subject of this hearing is the proposed negotiation of a pretrade area with five Central American countries. The TPSC is seeking public comment to assist the United States Trade Representative in amplifying and clarifying negotiating objectives for the proposed agreement and to provide advice on how specific bids and services and other matters should be treated under the proposed agreement.

In addition to the testimony we will hear today interested persons including persons who

1 participate in the hearing may send written comments
2 until noon, December 2, 2002. Written comments may
3 include rebuttal points, demonstrating errors of fact
4 or analysis not pointed out in the hearing.

5 Under Section 2104 of the Bipartisan Trade
6 Promotion Authority Act of 2002, TPA Act, for
7 agreements that will be approved and implemented
8 through TPA procedures, the president must provide
9 Congress with at least 90 days written notice of his
10 intent to enter into negotiations and must identify
11 the specific objectives for the negotiation.

12 Before and after the submission of this
13 notice the president must consult with appropriate
14 congressional committees and the Congressional
15 oversight group regarding the negotiations under the
16 Trade Act of 1974 as amended.

17 The president must afford interested persons
18 an opportunity to present their views regarding any
19 matter relevant to any proposed agreement, designate
20 an agency or interagency committee to hold a public
21 hearing regarding any proposed agreement, and seek the
22 advice of the U.S. International Trade Commission
23 regarding the probable economic effects on U.S.

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1 industries and consumers of the removal of tariffs and
2 nontariff barriers on imports pursuant to any proposed
3 agreement.

4 On October 1st after consulting with
5 relevant congressional committees and the
6 Congressional Oversight Group, the USRA notified the
7 Congress that the president intends to initiate Free
8 Trade Agreement negotiations with five member
9 countries of the Central American Economic Integration
10 System, Costa Rica, El Salvador, Honduras, Guatemala,
11 and Nicaragua, hereinafter referred to as Central
12 America, and identified specific objectives for the
13 negotiations.

14 In addition, the USTR has requested the
15 ITC's probable economic effects advice and the ITC
16 intends to revive this advice on December 27, 2002.
17 To assist the administration as it continues to
18 develop its negotiating objectives for the proposed
19 agreement, the chairman of the TPSC has invited
20 written comments and oral testimony of interested
21 persons at a public hearing.

22 The rest of my statement, which you can
23 access on the table, describes the general categories

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1 that we are seeking public comment on.

2 In addition, USTR through the TPSC will send
3 to the Federal Register notice of review providing the
4 possible environment effects of the proposed agreement
5 and the scope of the U.S. environmental review of the
6 proposed agreement, and the impact of the proposed
7 agreement on U.S. employment and labor markets.

8 I would now like to introduce Regina Vargo,
9 the Assistant U.S. Trade Representative for the
10 Americas. Then I will ask our panel to introduce
11 themselves. We will then move to hear testimony from
12 the first witness. Thank you.

13 MS. VARGO: Thank you, Carmen. I appreciate
14 the opportunity to be here this morning and I thank
15 you all for the interest that you're showing in these
16 talks. I'm sorry I won't be able to stay for the
17 hearings themselves this morning but I know we'll
18 develop a complete record and that the panel here will
19 have a good exchange with each of you.

20 I did want to begin this mornings hearings,
21 though by giving a broad overview to why we think
22 pretrade agreement with Central America makes good
23 sense, and to elaborate just a little bit more than

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1 Carmen on where we are in the process.

2 Basically I would like to suggest four
3 reasons for why a Free Trade Agreement with Central
4 America is a good idea. The first involves the way it
5 will promote U.S. exports and create jobs. Our
6 exports to these five countries already total \$9
7 billion in 2001. Our NAFTA partners in Chile have or
8 are negotiating Free Trade Agreements with Central
9 America and we don't think U.S. companies should be
10 put at a competitive disadvantage.

11 The region also already benefits from the
12 CBI arrangement. We imported \$11 billion in 2001,
13 about 65 percent of which already entered duty free.
14 A Free Trade Agreement with the region would make
15 these benefits reciprocal.

16 Also, eliminating Central America's tariffs
17 and other barriers to U.S. trade such as unjustified
18 SBS measures, inadequate protection of intellectual
19 property rights, and limitations on service providers
20 will generate U.S. exports creating more and higher
21 paying U.S. jobs.

22 Second reason a Central America FTA makes
23 good sense is that it will advance their economic

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1 development supporting democracy and economic reform.
2 Economic growth through increased trade can contribute
3 to the reduction of poverty and to job creation in
4 the region. A Free Trade Agreement will promote and
5 reinforce the economic reforms underway. An FTA
6 stimulated economic growth will promote a deepening of
7 democracy, rule of law, and sustainable development.

8 Specific commitments in a Free Trade
9 Agreement such as those dealing with transparency will
10 add to the fight against corruption and support
11 accountability in government, while other provisions
12 will strengthen application of internationally
13 recognized worker rights. Environmental concerns will
14 also be addressed by the FTA itself and by the
15 economic development it enables.

16 Third, a Free Trade Agreement with Central
17 America will promote regional integration and the free
18 trade area of the Americas. A CAFTA will provide
19 further impetus to ongoing efforts in Central America
20 at regional integration both through an anticipated
21 increase in intra-regional trade and investment, and
22 by working as a group to undertake common commitments
23 with the United States.

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1 Through liberalized trade CAFTA will allow
2 each country to develop its competitive advantage.
3 And it will promote the free trade area of the
4 Americas by standing as an example of the ability to
5 overcome differences and a demonstration of the
6 benefits of free trade and by creating a healthy
7 concern among other countries which will not want
8 their products to be at a competitive disadvantage in
9 the United States.

10 Finally, pursuing a Free Trade Agreement
11 with Central America responds to a congressional
12 mandate. That was Congress' direction as expressed in
13 the Caribbean Basin Trade Partnership Act to initiate
14 negotiations with beneficiary countries and conclude
15 comprehensive, mutually advantageous trade agreements
16 with them.

17 With that by way of background, let me give
18 you a short history of what we've done so far. As you
19 know, on January 16 President Bush announced that we
20 would explore a U.S. Central America Free Trade
21 Agreement in close cooperation with the Congress.

22 Since February we have held seven workshops
23 with Central American countries. Let me emphasize

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1 these were not negotiations. They were informal
2 information exchanges on topics, though, that we would
3 like to see covered in a Free Trade Agreement such as
4 market access, government procurement, SBS, services,
5 intellectual property right, trade facilitation,
6 electronic commerce, investment, environment, labor,
7 and trade capacity building.

8 Let me take a moment on that last point of
9 trade capacity building as this is a horizontal thread
10 in all of our discussions. With assistance from the
11 Inter-American Development Bank, ASCCLA, and other
12 donors, we have worked with the Centrals to help them
13 develop national action plans to identify their
14 assistance needs.

15 Our approach with the Centrals on trade
16 capacity building is comprehensive and we'll address
17 three areas. (1) the preparation for negotiations;
18 (2) implementation of the agreement; and (3)
19 transition to free trade.

20 We want to ensure that the Centrals build
21 the capacity to take on the necessary obligations and
22 to take full advantage of the benefits of an eventual
23 agreement. By December 6th these countries will

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1 indicate priority needs for the following 90 days and
2 we'll plan to release their national strategies
3 publicly.

4 On August 29th, as Carmen indicated, we
5 requested ITC analysis on probable economic effects
6 including on sensitive agricultural products which we
7 expect by year end. Ambassador Zelig met with the
8 Congressional Oversight Committee on September 19th
9 and on October 1st formally transmitted his
10 notification to Congress of our intent to enter into
11 negotiations with Central America.

12 That's a document you should all have and it
13 lays out our initial thoughts on negotiating
14 objectives. As Carmen mentioned, that starts a 90-day
15 clock that would enable us to initiate negotiations
16 with Central America in January of 2003.

17 Although the TPSC and other consultations
18 are mandated in TPA, much of this represents a
19 codification of our existing practice, although we
20 plan to intensify our consultations with both the
21 public and the Congress. These consultations we
22 expect to be continuous and not limited just to the
23 objectives specified in the trade promotion authority.

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1 Our hearing today represents our first major
2 outreach to the public in order to get your views on
3 this agreement, but there will be a number of other
4 opportunities including the written comment by
5 December 2nd, labor reports, and an environmental
6 review process.

7 I would like to highlight for you that we
8 anticipate that the Federal Register Notice on the
9 environmental review will come out probably before
10 Thanksgiving. There will be the reports, of course,
11 of our private sector advisory committees, and the ITC
12 will be doing a report at the beginning and the end of
13 this process.

14 We're interested in hearing from all of the
15 stakeholders now and throughout the course of the
16 negotiations. By participating today you have given
17 us early notice of your interest in these negotiations
18 and we look forward to working with you on that over
19 the course of the next year or so. Thank you very
20 much.

21 CHAIRPERSON SURO-BREDIE: Thank you, Regina.

22 Could our panel introduce themselves
23 starting with Mr. Dan Fantozzi.

1 MR. FANTOZZI: My name is Dan Fantozzi. I'm
2 senior adviser for Central American Trade at USDR.

3 MS. SAUCEDA: My name is Cathy Saucedo. I
4 work with the Office of Field Operations in Trade
5 Enforcement with the United States Customs Service.

6 MS. SANMIGUEL: I'm Carmen Sanmiguel with
7 the Department of Treasury.

8 MS. HEINZEN: I'm Janet Heinzen with the
9 Office of Textiles and Apparel at the U.S. Department
10 of Commerce.

11 CHAIRPERSON SURO-BREDIE: I'm Carmen Suro-
12 Bredie.

13 MS. VARGO: Regina Vargo.

14 MS. FREEMAN: Brenda Freeman, U.S.
15 Department of Agriculture.

16 MS. BOWIE-WHITMAN: Barbara Bowie-Whitman,
17 Department of State, Western Hemisphere Bureau.

18 MR. LEAHY: Dan Leahy, U.S. International
19 Trade Commission, Director of External Relations.

20 CHAIRPERSON SURO-BREDIE: Thank you. Now
21 we're hear from our first witness, Mr. James Fendell,
22 former president of the American Chamber of Commerce,
23 who will be testifying on behalf of the Chamber of

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1 Commerce of the United States of America.

2 Thank you, Mr. Fendell. Before you testify,
3 if I could review the rules of testimony for the
4 witnesses. Basically, with very few exceptions, if we
5 have received your testimony in a timely fashion, we
6 have read it and formulated questions. Please keep
7 your testimony to five minutes.

8 I will advise you when you are coming close
9 to that time and will cut you off if you cannot
10 respond to my watch. We have something like 14 people
11 testifying this morning so we are on a very tight time
12 schedule. Then the panel will be asking questions of
13 the witness. Thank you very much.

14 MR. FENDELL: Thank you, Madam Chair and
15 members of the panel. I am pleased to appear before
16 this committee on behalf of the U.S. Chamber of
17 Commerce. With over three million members of every
18 size, sector, and region of the United states, the
19 Chamber is the world's largest business federation.

20 I am also pleased to represent the
21 Association of American Chambers of Commerce in Latin
22 America (AACCLA). AACCLA is a leading advocate of
23 increased trade and investment between the United

1 States and Latin America. With over 20,000 member
2 companies, AACCLA represents over 80 percent of all
3 U.S. investment in Latin America.

4 There are AmChams in each of the five
5 countries in Central America, and their constituent
6 base has actively worked to encourage passage of CBI
7 legislation and, most recently, toward the successful
8 passage of the TPA and the related items in the Trade
9 Act of 2002.

10 Our member companies and their employees in
11 the United States and in Central America will benefit
12 directly from the proposed U.S.-Central America Free
13 Trade Agreement. We are firmly committed to
14 encouraging and supporting the negotiation and
15 ratification of a comprehensive agreement between the
16 United States and Central America as well as the
17 subsequent FTAA.

18 In the eight years since Mexico's adhesion
19 to NAFTA came into force, trade between the United
20 States and our second border has nearly tripled, with
21 bilateral commerce reaching nearly \$250 billion
22 annually. Mexico overtook Japan to become the second
23 most important trading partner to the United States

1 (after first border partner Canada), and Mexico's
2 export earning today are triple those of Brazil.

3 Recently, a number of noteworthy events have
4 occurred that have important implications for U.S.
5 trade with the nations of Latin America in general and
6 Central America in particular.

7 The restoration of Trade Promotion Authority
8 as part of the Trade Act of 2002 restores the United
9 States' full participation in international trade
10 negotiations and signals our intention to renew a
11 strong leadership position on trade.

12 Earlier this month, the United States, in
13 partnership with Brazil, became co-chair of the final
14 phase of the Free Trade Area of the Americas (FTAA)
15 negotiations, which are scheduled to conclude by
16 January 2005. The FTAA will gather the countries of
17 the Western Hemisphere into a cohesive trading block
18 at a time when competitive pan-national trading blocks
19 are forming, particularly in Europe and Asia.

20 Even before the advent of economic
21 difficulties now being experienced by several Latin
22 American economies, there were signs of significantly
23 different expectations as to the reach and depth of

1 the FTAA in the countries of the Southern Cone of
2 South America.

3 While recent events in Mercosur have clouded
4 our crystal ball, it is highly probable that a number
5 of the countries of that trading block will seek to
6 impose their different trade objectives on the FTAA.

7 The development of similar trading blocks
8 with countries along the U.S. "third border" -
9 composed of Central America and the Caribbean - is
10 both a desirable and effective mechanism to further
11 the free trade objectives of our country and an
12 equally effective mechanism to facilitate the complex
13 task of achieving and FTAA in the next three years.

14 It is self evident that close trading
15 partners are also natural partners in the war against
16 terrorism. Our trade with Canada and Mexico enhances
17 our Northern and Southwestern border protection. The
18 proposed Central America-United States of America Free
19 Trade Agreement will strengthen that protection, as
20 will any strengthening of our ties with the nations of
21 the Caribbean.

22 The fundamental rationale for any Free Trade
23 Agreement is increasing the flow of goods and services

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1 within the region. The evidence is clear that such
2 agreements benefit American workers and companies at
3 the same time that the concomitant increase in foreign
4 direct investment and improved access to capital and
5 advanced technology favorably and directly impact the
6 economies of our trading partners and the well being
7 of their populations.

8 In the case of Central America, it is
9 particularly important that an FTA stimulate local
10 development. Decades of domestic strife have driven
11 significant emigration, mostly into the United States
12 and relatively well off Costa Rica. Improvements in
13 the local economies of the region will help to stem
14 the tide of often illegal immigration.

15 While it is true that remittances from
16 Central American workers in the U.S. back to their
17 homelands are important inputs into local economies,
18 such currency flows come at the expense of breaking up
19 family units and do little to stimulate real economic
20 growth in the region.

21 Existing trade relationships with our third
22 border neighbors are based on one-way concessions by
23 the United States. Such concessions have been

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1 important throughout the lifetime of the three phases
2 of the Caribbean Basin Initiative, but by their very
3 nature are arbitrary and can lapse, as evidenced by
4 the havoc created by the expiration of the Andean
5 Trade Preference Act a few months ago.

6 The flow of money and access to capital
7 needed to develop long lasting investments requires
8 long term guarantees that are best achieved through
9 international trade treaties. Furthermore, such
10 treaties guarantee U.S. companies better-regulated and
11 more competitive access to our trading partners.

12 In the case of Central America and during
13 the period of the Caribbean Basin Initiatives, U.S.
14 trade has benefitted far more than the naysayers had
15 predicted, and even more than those who favored CBI
16 had anticipated.

17 In fact, Central America, under CBI, has
18 been one of the fastest growing buyers of U.S. goods
19 and services over the past decade. Trade is quite
20 clearly a two way street, and the signing of a well
21 balanced Free Trade Agreement with the five countries
22 of Central America can do nothing but further
23 stimulate U.S. exports to the region.

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1 An FTA with Central America on the heels of
2 a successful conclusion to the FTA negotiations with
3 Chile will send a critical signal to our Southern
4 neighbors. First, it will fulfill decades long
5 promises by U.S. Presidents from John Kennedy onward,
6 that Latin America is truly important to us.

7 Further, it will prove in the most
8 convincing of ways that the U.S. is fully committed to
9 the Free Trade Area of the Americas and to helping our
10 entire Hemisphere embrace free market reforms and the
11 responsibilities that go with such reforms.

12 I am pleased to represent both the Chamber
13 of Commerce, as I said before, and AACCLA, and I will
14 be more than happy to entertain any questions. Thank
15 you, Madam Chair.

16 CHAIRPERSON SURO-BREDIE: Thank you, Mr.
17 Fendell. I guess I will ask the first question. When
18 I was in Regina Vargo's job quite a while ago, I
19 worked very closely with AACCLA and particularly with
20 the Chamber of Commerce on the foundation of the FTAA
21 and, of course, in the Chile negotiations.

22 I wonder if you could spend a minute just in
23 front of the panel on the types of arrangements that

1 you think the Chamber might undertake in the case of
2 Central America. I know a number of studies were done
3 in the past by AACCLA. What type of work would you
4 envision the Chamber and AACCLA doing with regard to
5 Central America?

6 MR. FENDELL: To begin with we already have.
7 Among other things we have held a series of seminars
8 for the press. We believe that the accurate and
9 complete dissemination of information about what a
10 Free Trade Agreement is and the information about how
11 a Free Trade Agreement benefits both trading partners.

12 Further, we seek to demystify certain
13 concepts. Among those concepts is that the U.S. is
14 imposing its trade on the area. This is a classic
15 kind of knee-jerk response and it is one that is often
16 formatted by those who would prefer not to see a Free
17 Trade Agreement come into play.

18 By disseminating a series -- excuse me. By
19 disseminating information through a series of off-the-
20 record background training sessions with leading
21 members of the press throughout Central America.

22 We hope to establish an atmosphere in which,
23 (1) we have increased our face time with the press so

1 that they can get to us easily, (2) to answer the
2 classic questions of why is the U.S. doing this to us?
3 The real answer is because we benefit from it, but
4 more importantly the trade country, the trading
5 partner benefits tremendously from it and we can prove
6 that and we do in these seminars.

7 We would propose to continue to do so with
8 other opinion making groups throughout the area.
9 Finally, our member companies which are obviously the
10 leading American trade partners in the area are
11 prepared to undertake one-on-one negotiations with
12 local lawmakers and with their home company
13 headquarters and, as bad as it might sound, their
14 representatives here in Washington working with the
15 lawmakers here in order to assure passage of the
16 CAFTA.

17 CHAIRPERSON SURO-BREDIE: Other questions
18 from the panel?

19 MR. FENDELL: Thank you very much.

20 CHAIRPERSON SURO-BREDIE: Our next witness
21 is Brenda Jacobs on behalf of the U.S. Association of
22 Importers of Textile and Apparel.

23 Welcome.

1 MS. JACOBS: Good morning. USAITA is a very
2 strong supporter of a Free Trade Agreement between the
3 United States and the five countries of Central
4 America. These countries are for USAITA members and
5 others very important suppliers of apparel to the U.S.
6 market.

7 Central America ranks as one of the major
8 sources of apparel imports for the U.S. market. As of
9 August 2002 data, and there's more data coming out
10 today, they provided 16 percent of the apparel imports
11 into the United States.

12 Honduras is the third largest supplier of
13 apparel to the U.S. market accounting for about a
14 little over six percent of the apparel imports. El
15 Salvador is the 6th largest accounting for about 4.2
16 percent of total apparel imports. Guatemala is the
17 15th largest supplier, but none of these countries is
18 a significant supplier of yarns, fabrics, or other
19 nonapparel goods.

20 In our view, if properly crafted the
21 proposed FTA offers an important opportunity to
22 promptly expand upon the very limited scope and
23 limited success of the Caribbean Basin Trade

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1 Partnership Act.

2 Assuming that commercially sound terms are
3 agreed upon, it also offers a classic win/win
4 situation. The elimination of tariffs and non-tariff
5 barriers to trade and other market liberalization
6 measures among the participating countries can
7 generate increased integration of operations among
8 businesses within the United States and the
9 participating countries of Central America increasing
10 sales and jobs in each country.

11 Focusing on the apparel issues alone, USAITA
12 advocates the following negotiating objectives.
13 First, the elimination of tariffs on all products
14 including textiles and apparel on an expedited
15 schedule. For apparel products and luggage already
16 included within the scope of the CBTPA a continuation
17 of that duty-free treatment without interruption.

18 We also propose the use of a single rule of
19 origin rather than specialized and complex textile and
20 apparel rules and one which permits the use of inputs
21 from other FTA partners. And we propose that you seek
22 the elimination of the various import related fees and
23 the establishment of streamlined paperless customs

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1 entry procedures.

2 Let me elaborate on some of these points.
3 With respect to duties, the objective should be no
4 staging of duty reductions. The duty should be set a
5 zero reciprocally upon implementation. Tariff
6 implementation is an essential element of any FTA, but
7 in the case of apparel trade with Central America, the
8 negotiation process has to recognize two essential
9 facts.

10 First, many of these products were already
11 duty free under CBTPA. The maintenance and expansion
12 of that business is dependent upon at minimum the
13 continuation of the current duty free treatment
14 without interruptions and without any temporary spikes
15 in those duties.

16 Second, we are facing in a little over two
17 years the elimination of the international quota
18 system under the agreement on textiles and clothing.
19 That means that cost rather than availability of quota
20 will be the primary factor driving sourcing decisions.
21 The ability of these Central American countries to
22 compete in this sector in a quota-free environment
23 will be significantly enhanced by the availability of

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1 duty-free access to the U.S. market.

2 With respect to origin rules, the FTA should
3 provide for the expansion of CBTPA benefits by
4 covering more goods and incorporating more business
5 friendly terms. The experience of our companies under
6 CBTPA offers an essential lesson on how origin rules
7 can make or break a program.

8 Participation in CBTPA has been less than
9 had been hoped for precisely because the rules are
10 restricted. They preclude the use of yarns produced
11 in the Caribbean or Central America or from Mexico or
12 Canada, for that matter.

13 Initial reaction to the terms of the more
14 recently approved Andean Trade Promotion and Drug
15 Eradication Act indicates that the ability to use
16 Andean formed yarns is creating greater interest and
17 taking advantage of that program because it provides
18 more flexibility so that competitive products can be
19 developed.

20 Also, the fact is that we have to recognize
21 that the Central American FTA is merely a precursor to
22 the western hemisphere wide arrangement, the FTAA.
23 Therefore, in putting together an origin rule we

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1 should be striving for one that can be readily
2 incorporated into the FTAA. USAITA member companies
3 cannot successfully expand their business if each new
4 trade agreement contains a different rule of origin.

5 We also want to touch briefly on the labor
6 issues because USAITA recognizes that labor rights
7 have been an issue in the region. Yet, we are
8 confident that enhanced trade opportunities under an
9 FTA will help promote worker rights and quality
10 working conditions. It will do so by expanding
11 business and creating new jobs which will, in turn,
12 give workers greater leverage.

13 If, however, there are failures or
14 deficiencies, the answer, in our view, should be a
15 system that focuses on addressing the individual
16 problem with a primary goal of remediation, not
17 sanctions, that eliminate or destroy the benefits
18 created under an FTA.

19 USAITA thanks you for the opportunity to
20 present our views on the FTA with Central America and
21 we look forward to consulting closely with each of the
22 agencies involved to ensure that the interest of the
23 U.S. appeal importing community are fully reflected in

1 the final agreement. Thank you.

2 CHAIRPERSON SURO-BREDIE: Thank you very
3 much, Ms. Jacobs.

4 Our first question will be asked by the
5 representative of U.S. Customs.

6 MS. SAUCEDA: Good morning.

7 MS. JACOBS: Good morning.

8 MS. SAUCEDA: The first question I have for
9 you is what rule of origin would you suggest for
10 apparel and how would it impact current USITA's member
11 sourcing particularly with regard to NAFTA, CBTPA,
12 AGOA, and the new Adean program?

13 MS. JACOBS: We would use the Bro-Carden
14 rule, the general rule of origin rather than a
15 preferential rule. We have to recognize that none of
16 the five countries we're talking about are making any
17 of these fibers or yarns so if we do a NAFTA-type rule
18 of origin, they would be dependent upon importing the
19 yarns and fabrics from the United States which is not
20 going to make them as attractive or else they would
21 have to first invite investment for the creation of
22 yarn and fabric production into those countries which
23 would be difficult at this time.

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1 Another alternative, as we have sort of
2 alluded to here, is that if you are going to have an
3 FTA with one set of countries and the United States
4 has FTAs with other countries, at the very least we
5 ought to be able to append what those other countries
6 with whom the U.S. has an FTA are also able to
7 produce.

8 For example, we've got NAFTA. You could at
9 least include Mexican and Canadian fabric in yarn
10 production. A better rule would be using a
11 nonpreferential Bro-Carden type rule.

12 MS. SAUCEDA: Do you want to say anything
13 about the sourcing? How would this impact your
14 sourcing from other areas with regard to NAFTA and
15 CBTPA?

16 MS. JACOBS: You're talking about compared
17 to Asia, for example?

18 MS. SAUCEDA: Well, yes.

19 MS. JACOBS: In fact, I think we seek two
20 very different sets of sourcing that generally go on
21 among our members. The western hemisphere, including
22 the Central American countries, tend to supply a more
23 basic product, less than a fashion oriented product.

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1 They tend to compete with one another right
2 now for that business. That could change, though, in
3 a quota-free world when you have short lead times and
4 the ability to develop a more sophisticated product
5 that will enable them to better compete with Asian
6 suppliers in the future.

7 MS. SAUCEDA: Just one additional question.
8 The rule of origin for preference for these provisions
9 permitted foreign inputs. What impact would you
10 expect that to have on investment in Central America?

11 MS. JACOBS: Foreign input such as yarns and
12 fabrics? That would obviously make it very much more
13 attractive to do business in these countries because
14 obviously many of the less expensive fabrics and yarns
15 can be sourced outside of the western hemisphere and
16 then utilized to produce finished garments in those
17 countries. That would clearly be very attractive,
18 especially at duty-free access to the U.S. market.

19 MS. SAUCEDA: Thank you very much. Those
20 are all the questions for Customs.

21 CHAIRPERSON SURO-BREDIE: The next question
22 is by the U.S. Department of Commerce.

23 MS. HEINZEN: How would you expect a greater

1 flexibility in the rules of origin to encourage
2 increased U.S. textile product exports to Central
3 America?

4 MS. JACOBS: Well, I think it would allow
5 if, for example, we had a more flexible rule like a
6 Bro-Carden rule that would allow U.S. mills to mix
7 different yarns so that they could use specialized
8 yarns that's aren't necessarily made in the United
9 States without concern that they were then not
10 qualifying to participate in these benefits, then our
11 U.S. mills could produce a more competitive product
12 that responds more quickly.

13 For example, to fashion changes. I think a
14 more flexible rule that was based on Bro-Carden would
15 allow both U.S. mills and even U.S. yarn producers who
16 may be able to blend more interesting combinations in
17 order to create qualifying goods would create better
18 opportunities for both to compete well.

19 We would also see, perhaps, what's happened
20 in Mexico where many U.S. yarn and fabric producers
21 invested in Mexico in order to expand their business
22 rather than relying solely on the mills they have here
23 getting closer to the customer and expanding their

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1 operations that way and using that as a base perhaps
2 to sell into other markets as well.

3 MS. HEINZEN: What percent of your members
4 import apparel from the Central American countries?

5 MS. JACOBS: Virtually every one of them
6 does. Many of our members balance what they do. They
7 have some fashion goods that they have longer lead
8 times that they import from Asia. They also have
9 their basic goods for which they have just in time
10 inventories for which Central Americans and other
11 western hemisphere countries are absolutely essential.

12 MS. HEINZEN: I'm sorry. Most of your
13 members import from Central America?

14 MS. JACOBS: Absolutely, yes.

15 MS. HEINZEN: If more favorable conditions
16 exist for textile products to be imported into the
17 U.S. due to the Central America FTA, do you envision
18 imports from this region increasing into the U.S.?

19 MS. JACOBS: Yes, we do. We can imagine
20 that there would be a greater interest in trying to
21 train these producers to make more fashion-oriented
22 goods in order to avoid the longer lead times that are
23 involved in Asian supplies.

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1 MS. HEINZEN: In your statement you comment
2 that the elimination of tariffs and non-tariffs
3 barriers to trade between the U.S. and Central America
4 will result in increasing sales and jobs in each
5 country. On what do you base this assessment?

6 MS. JACOBS: Just our own experience of the
7 ability to integrate operations so that we can work
8 with U.S. mills to create a product that can then be
9 produced in the western hemisphere. Keeping it all
10 within the western hemisphere you shorten lead times.

11 When you have to rely upon, for example,
12 Korean or Chinese or Taiwanese fabric, then you have
13 a longer lead time until those goods get produced and
14 can get shipped even over here to be produced into a
15 garment in a Central American country.

16 MS. HEINZEN: Thank you.

17 CHAIRPERSON SURO-BREDIE: Are there any
18 other questions? Representative of ITC.

19 MR. LEAHY: Actually, I don't have a
20 question. I have an invitation. You have mentioned
21 several times the quota-free world that your members
22 will be faced with in a few short years.

23 The Commission has been asked to take a look

1 into that world, so I invite you and actually anyone
2 else in the audience who would like to share their
3 views with the commission to do so when the time
4 becomes appropriate.

5 MS. JACOBS: I can assure you, Dan, that our
6 members are very interested in it. We are very much
7 aware of the deadline to notify of our interest in
8 testifying. You will hear from us. Thank you.

9 CHAIRPERSON SURO-BREDIE: Thank you very
10 much.

11 Our next witness is Mr. Jack Roney, Director
12 of Economics and Policy Analysis, The American Sugar
13 Alliance. The panel will be joined by USTR
14 representative Sharon Sydow. Sharon just recently
15 changed her name so we're used to calling her
16 something else.

17 Mr. Roney, the floor is yours.

18 MR. RONEY: Thank you for the opportunity to
19 testify on behalf of the U.S. Sugar Industry. I'm
20 Jack Roney, Director of Economics and Policy Analysis
21 for the American Sugar Alliance. The ASA is the
22 national coalition of growers, processors, and
23 refiners of sugar beets, sugar cane, and corn for

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1 sweeteners.

2 The world sugar market is distorted by a
3 vast array of government policies that encourage over
4 production and dumped exports. As a result the so-
5 called world market price for sugar is really a dump
6 price that reflects barely half the world average cost
7 of producing sugar.

8 The ASA has long endorsed the goal of global
9 free trade in sugar. American sugar and corn
10 sweetener producers are efficient by world standards.
11 We welcome the opportunity to compete in a genuine
12 level playing field free of government intervention.
13 Our market should not be open further, however, until
14 foreign subsidies are eliminated.

15 We strongly urge that the administration
16 pursue reform of the myriad of trade distorting
17 policies globally in the context of the ongoing
18 multilateral negotiations of the WTO and not regionally
19 in the proposed Central America FTA.

20 A limited dismantling of trade barriers in
21 the regional context would bring two dangers. One,
22 those countries would become more vulnerable to
23 continuing distortions in the rest of the world. Two,

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1 the region would squander leverage to achieve
2 meaningful reform in the global context.

3 Opening our sugar market to the five Central
4 American countries designated for FTA negotiations
5 will result in major disruption of the U.S. sugar
6 market, sharply reduced producer prices and income, a
7 great loss of U.S. jobs, and major budgetary outlays
8 for the U.S. Government.

9 These costs would far outweigh any overall
10 gains to the U.S. economy resulting from tariff
11 elimination. In particular, history shows that
12 consumers would not see any benefit from lower
13 producer prices past along to them in the form of
14 reduced retail prices for sugar or sugar-containing
15 consumer products.

16 All five of the countries covered by the
17 proposed FTA negotiation, Costa Rica, El Salvador,
18 Guatemala, Honduras, and Nicaragua are significant
19 producers and exporters of sugar. Guatemala is the
20 world's seventh largest exporter exporting on average
21 1.2 million tons over the past three years. These
22 countries already have a significant share, roughly 10
23 percent of the U.S. duty-free sugar imports.

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1 In total these five countries produce over
2 \$3 million tons of sugar per year and export nearly 2
3 million tons of that. The great bulk of this export
4 capability would be directed to the U.S. market if our
5 tariffs on sugar and sugar-containing products were
6 eliminated for these countries. To put this in
7 perspective, we are importing only about 1.5 million
8 tons of sugar per year from 40 countries already.

9 In fact, Central American sugar exports to
10 the U.S. alone could exceed their current total
11 exports of about 2 million tons for two reasons.
12 First, the prospect of unlimited access to the U.S.
13 market would likely encourage increased sugar
14 production as it did in Mexico. Second, these
15 countries could send us all their domestic production
16 and substitute imported dump-market sugar for their
17 own consumption.

18 I should also note that the low U.S. market
19 prices that were a result from increased Central
20 American imports would harm the other 35 countries
21 that have shares of the U.S. sugar import quota.
22 Virtually all these countries are developing
23 countries. Many are poor and heavily dependent on

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1 their shipments to the U.S. market. Shrinkage of the
2 U.S. market at these countries' expense would no doubt
3 lead them to demand equal treatment or compensation.

4 Finally, we would point out that the
5 proposed Free Trade Agreement with Central America is
6 one of only several FTA's underway or contemplated
7 involving major sugar producers. Chile, the free
8 trade area of the Americas, Australia, and South
9 Africa are others. Increasing market access on sugar
10 for Central America would set a precedent for these
11 other negotiations that would presage even greater
12 disruption of the U.S. sugar market.

13 The U.S. sugar industry believes that trade
14 distorting government policies and pervasive dumping
15 can be effectively addressed only in multilateral WTO
16 negotiations. We have urged the administration to
17 focus its efforts on comprehensive, sector-specific
18 negotiations within that form.

19 Attempts to deal with the problems plaguing
20 the world's sugar industry and to eliminate tariffs on
21 sugar within the various FTA negotiations would
22 jeopardize this broader goal in our unworkable.

23 In conclusion, rather than including sugar

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1 in efforts for individual FTAs the sounder course of
2 action is for our FTA partners to join with the U.S.
3 in sector-specific WTO negotiations to attack
4 aggressively and to eliminate the government policies
5 that have so grossly distorted world trade in sugar.

6 Thank you for your attention.

7 CHAIRPERSON SURO-BREDIE: Thank you. The
8 first question will be asked by the representative of
9 the Department of Agriculture.

10 MS. FREEMAN: Thank you for your testimony.
11 The question I have is that you mentioned that
12 subsidization is common among sugar producers, in
13 Brazil, for example. Do you have any information on
14 what type of domestic support or other programs that
15 the Central American Free Trade Agreement countries
16 provide their sugar sectors?

17 MR. RONEY: Yes, Ms. Freeman. Thank you for
18 asking that. We have been working with LMC
19 International of Oxford, England, on a comprehensive
20 study of the 13 largest sugar producing and exporting
21 countries. One of those is Guatemala and we do have
22 some detailed information for you on Guatemala.

23 Guatemala is the one we are focused on

1 because they produce alone more than the other four
2 countries produce together. Their policies are fairly
3 typical of that area. We are working with LMC to
4 complete that study.

5 We hope to have it completed within the next
6 couple weeks. We look forward to providing that to
7 the trade policy staff committee, to ITC, to USDA
8 because we think that it will be a very helpful
9 guideline to you in understanding and accessing the
10 nature of foreign sugar policies.

11 One of the things I just point out is that
12 with the world sugar market one of the problems is
13 that only a portion of government intervention in
14 sugar fits into the three classic cones of domestic
15 supports, market access, or tariffs and export
16 subsidies.

17 There are a host of what we would consider
18 less transparent government interventions that play a
19 major role in destroying the world sugar market. One
20 of the advantages of the work that we're having done
21 with LMC International is that they are looking not
22 only at the transparent government interventions but
23 the less transparent ones.

1 I would note in their preliminary work on
2 Guatemala that we found that the Guatemalan government
3 does not intervene very directly in their sugar
4 market. However, they allow the domestic industry to
5 impose upon itself domestic marketing quotas. They
6 control prices and exports.

7 As a result, the domestic prices in
8 Guatemala, as one would expect with any country that
9 is producing sugar in significant quantities, is more
10 than double the world dump market price so they
11 maintain a price structure there well in excess of
12 world dump market prices so that their industry can
13 continue to survive. We'll have that study for, I
14 think, within the next couple of weeks.

15 CHAIRPERSON SURO-BREDIE: Our next question
16 is by USDR.

17 MS. SYDOW: Good morning. I think that your
18 answer to the previous question is a good lead-in for
19 the question I would like to ask, and that is is the
20 trade between the five countries unrestricted and if
21 it is not, what types of barriers exist -- trade
22 barriers exist between the countries?

23 MR. RONEY: The work that we have had done

1 so far, as I mentioned, focuses on Guatemala and it
2 found that Guatemala has a 20 percent import tariff.
3 Their bound and fixed rates in WTO are considerably
4 higher. They have the potential of going up to 160
5 percent. Their base rate is 178 percent.

6 Final rate under the Uruguay Round Agreement
7 on Agriculture would be 160 percent so they do have
8 the potential for substantially higher tariffs. From
9 what we understand the barriers are similar among the
10 other countries in Central America but we are still
11 looking into that.

12 CHAIRPERSON SURO-BREDIE: Does anyone have
13 further questions?

14 Question by the Department of Agriculture.

15 MS. FREEMAN: You in part alluded to this
16 but I feel compelled to ask you this question. Do any
17 of the five countries have the capability to expand
18 sugar production beyond their current levels?

19 MR. RONEY: We believe that they all do and
20 that has been one of our fears. Our two major
21 concerns is that as Mexico did that they may try to
22 expand their production if they have this plumb of
23 unlimited access to the U.S. market where we maintain

1 a price closer to the world average cost of producing
2 sugar than to the world dump-market price. There's
3 the potential for increased production.

4 But an even great and more immediate concern
5 is that unless we have rules of origin that are
6 crafted very carefully, that these countries could
7 substitute. They could potentially send into the U.S.
8 all their domestic production totally about \$3 million
9 tons and import for their own needs from the world
10 dump market.

11 The temptation to do that would be
12 significant at current differentials where the world
13 dump market prices are running only about six cents
14 per pound and the U.S. price is about 22 cents per
15 pound. The temptation would be there to impart
16 foreign sugar for their own needs and send us the
17 domestic production. We would view that as an even
18 more immediate threat than increased production in
19 each of those countries.

20 CHAIRPERSON SURO-BREDIE: Could I ask a
21 question, Mr. Roney? How would the rules of origin
22 help you if they were sending domestically produced
23 goods?

1 MR. RONEY: What we have recommended in the
2 Chile FTA, for example, is that the surplus producer
3 definition that was crafted in the NAFTA agreement
4 relative to Mexico should apply to any country that we
5 do a Free Trade Agreement with and by having a surplus
6 producer requisite. In other words, they could send
7 to us exports not in excess of the differential
8 between their production and their consumption, that
9 that would prevent substitution. Is that point clear
10 or should I --

11 CHAIRPERSON SURO-BREDIE: Arcane, but clear.
12 Any more questions? If not, thank you very much.

13 Our next witness is Victoria Schantz. Have
14 I pronounced that right?

15 MS. SCHANTZ: Yes.

16 CHAIRPERSON SURO-BREDIE: National Milk
17 Producers Federation. And Peter Vitaliano.

18 DR. VITALIANO: Correct.

19 CHAIRPERSON SURO-BREDIE: Dr. Peter
20 Vitaliano also of the National Milk Producers
21 Federation. Welcome.

22 MS. SCHANTZ: Madam Chairman and members of
23 the committee, good morning. My name is Victoria

1 Schantz. I'm responsible for coordinating trade
2 policy for both the National Milk Producers Federation
3 and the U.S. Dairy Export Council. I'm accompanied by
4 Peter Vitaliano, Vice President of Economic Policy and
5 Market Research for the National Milk Producers
6 Federation.

7 I appreciate the opportunity to present the
8 views of NMPF and USDEC with respect to the proposed
9 U.S. Central American Free Trade Agreement. Both
10 constituencies I represent here today support a
11 clearly negotiated Free Trade Agreement with Central
12 America. We believe a U.S. Central American FTA makes
13 economic sense for the United States as it would
14 increase prosperity for these neighboring countries.

15 Benefits to the U.S. Dairy industry are
16 clear. Essential America is a net importer of dairy
17 products. In 2000 dairy imports the five Central
18 American countries from other countries amounted to
19 \$145.5 million.

20 Dairy exports from the five countries to
21 external destinations were just \$3.7 million that
22 year. In the year 2000 half of these imports were
23 from North America, primarily the United States, 23

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1 percent from Oceania, New Zealand, and Australia, and
2 16 percent from the European Union.

3 In the last three years U.S. exports of milk
4 powders and cheese to Costa Rica, El Salvador,
5 Guatemala, and Nicaragua grew steadily. We believe
6 that even if an FTA brings a rise in dairy production,
7 consumption will increase at a faster rate resulting
8 in a clear benefit for the U.S. dairy industry.

9 The five Central American countries will not
10 implement their final Uruguay Round tariff commitments
11 until 2004 at which time they will still retain
12 relatively high tariffs for many dairy products. The
13 final Uruguay Round bound tariffs for most dairy
14 products will range from 30 percent to over 100
15 percent.

16 Eliminating tariffs on Central American
17 imports of dairy products from the United States may
18 stimulate some additional U.S. dairy exports of
19 certain cheeses, dry and condensed milk products, and
20 perhaps a few other products.

21 The removal of current trade barriers
22 through the bilateral Free Trade Agreement would allow
23 U.S. dairy exports to overcome the natural advantages

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1 of export subsidies for European products and low-cost
2 production for New Zealand and Australian exports.

3 Similarly, providing duty-free treatment for
4 the U.S. imports dairy products from the five Central
5 American countries is not likely to have a significant
6 economic effect on industries in the United States
7 producing like or directly competitive products.

8 Nor upon consumers provided that the
9 liberalized access to the U.S. dairy market provided
10 by the FTA is respected to dairy products produced
11 from milk and dairy ingredients that truly originate
12 from those five countries.

13 This will be the case if the rules of origin
14 for the proposed U.S. Central American FTA provide
15 that all milk and dairy ingredients for which access
16 to the U.S. market is liberalized must be manufactured
17 from milk produced by cows in the five Central
18 American countries themselves.

19 The North American Free Trade Agreement
20 contains rules of origin for dairy products that
21 effectively provide for this type of restriction with
22 respect to dairy products from Mexico and Canada.

23 However, in the absence of such rules of

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1 origin, dairy products and dairy ingredients produced
2 in third countries, particularly New Zealand,
3 Australia, and member countries of the European Union,
4 could easily be trans-shipped through Central America
5 to benefit from the large difference in tariff
6 treatment afforded products that will qualify for
7 liberalized access to the U.S. market under a
8 bilateral agreement.

9 This would have a significant and negative
10 impact on U.S. industries producing like or directly
11 competitive products. Under the most scenario dairy
12 processing operations based in Central America could
13 import concentrated storable dairy components in the
14 form of butter oil, hydros milk fat, skim milk powder,
15 and whole milk powder, as well as products such as
16 hard cheese for further processing and use them to
17 produce products such as cheeses of various kinds and
18 dairy containing food preparations and chocolate
19 preparations to export to the United States.

20 In the assumed absence of stringent dairy
21 specific rules of origin similar to the NAFTA dairy
22 rules of origin, these processes would qualify as
23 origin-conferring substantial transformations enabling

1 the resulting products to qualify for duty-free entry
2 under the terms of the FTA.

3 Therefore, it is critical for the support of
4 the U.S. dairy industry to any FTA with Central
5 America that the agreement must maintain NAFTA rules
6 of origin for dairy. Without these stringent rules of
7 origin the U.S. dairy industry would have to
8 reevaluate our supporting position of the U.S. Central
9 American Free Trade Agreement.

10 Thank you. We appreciate the opportunity to
11 comment on the matters addressed by this hearing and
12 we will be happy to answer any questions.

13 CHAIRPERSON SURO-BREDIE: The first question
14 will be asked by the U.S. Department of Agriculture.

15 MS. FREEMAN: Thank you for your testimony.
16 In your view, what U.S dairy products have the most
17 potential as exports to Central America?

18 MS. SCHANTZ: I'll start and then I'll pass
19 it to Peter. We expect that increased cheese exports
20 and milk powders similar to our success in the
21 recombination of powders through Mexico. I don't know
22 if you would like to add anything.

23 DR. VITALIANO: That's pretty much the main

1 list. The consumer industry is down in those
2 countries. They are not at the point where they
3 import a lot of sophisticated dairy products. Many of
4 them are what we call commodity products, milk
5 products, milk powder like for further processing
6 locally into yogurt and fresh fluid milk basically
7 because their local dairy industries generally cannot
8 even produce enough fresh milk for fluid needs let
9 alone a broad array of what we call manufactured dairy
10 products.

11 MS. FREEMAN: Also the dairy consumption is
12 not at the take-off stage.

13 DR. VITALIANO: Generally not in those
14 countries but it could be aid. The general pattern in
15 developing countries everywhere is to be substituting
16 more and more animal protein products for vegetable
17 sources including dairy. The long-term picture for
18 dairy product consumption is good in almost all
19 developing countries.

20 CHAIRPERSON SURO-BREDIE: The next question
21 by the U.S. Trade Representative.

22 MS. SYDOW: Good morning. Thank you for
23 your testimony. I want to ask a question and follow

1 up on your comments with respect to rules of origin.
2 You had mentioned that in the context of NAFTA the
3 rules of origin require that the milk be produced in
4 the country in which the dairy product is being
5 produced and that was something you would like to see
6 in the context of these negotiations. Are there any
7 other characteristics of the NAFTA rules of origin
8 that have worked well for the dairy industry that we
9 should be looking at in this context?

10 DR. VITALIANO: Well, the NAFTA rules of
11 origin, that's a shorthand way of describing it
12 because, you know, they are quite technical in terms
13 of their reference to shifts from subheadings. There
14 is always the question of enforcement. The rules of
15 origin for NAFTA are some of the most complex and
16 tight that you'll find for any commodity.

17 We have not spent an awful lot of time
18 following up their enforcement, although if you look
19 at how Mexico has gone from being basically unable to
20 fill the TRQs that it had to get to the point where
21 they are filling them, at some point our industry is
22 going to be interested in taking a look at exactly
23 what the enforcement situation is down there. I'm not

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1 sure that would be as big a problem for Central
2 America. They don't have as well developed a dairy
3 industry.

4 If some major new dairy plan was put in
5 place with obvious backing for, say, the New Zealand
6 dairy board -- it's now called something else -- it
7 would probably be a little more obvious than we would
8 have with Mexico. I would say the enforcement is a
9 critical issue, particularly when you get things that
10 complex and you have -- it's a real challenge for
11 Customs to administer those.

12 CHAIRPERSON SURO-BREDIE: The next question
13 by the U.S. Department of Agriculture.

14 MS. FREEMAN: My question is about the
15 intra-trade in the Central American countries in dairy
16 products. Is that fairly unrestricted or are there
17 barriers to the fair internal trade between those five
18 countries?

19 DR. VITALIANO: I'm not sure I can really
20 answer your question because, as I said, our focus is
21 always on sort of trade into and from the region but
22 given that milk production is fairly low, I would be
23 surprised if there is an awful lot of trade between

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1 the countries. I'm not sure the state of trade
2 barriers. I know they have some sort of a Central
3 American trade agreement. I'm not sure whether it
4 addresses dairy.

5 My guess would be that the pattern is that
6 each country has a relatively small dairy industry and
7 those industries are challenged to supply enough fresh
8 milk just for fresh fluid needs and maybe some simply
9 manufactured products in their local markets. There
10 may be some trading patterns between the countries but
11 we're not really familiar with that.

12 MR. LEAHY: One quick question. Have you
13 done any economic analysis to show what you think the
14 potential is in these markets for U.S. export?

15 DR. VITALIANO: Not formal analysis. We've
16 done a little bit more in terms of the broader areas,
17 broader trade agreements, the WTO agreement and, to a
18 certain extent, the FTAA. Quite frankly, we would put
19 Central American FTA, as well as the pending one with
20 Morocco, along the lines of relatively modest
21 potential markets.

22 To a certain extent the U.S. even though we
23 face a lot of disadvantages subsidized exports from

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1 the EEU as a major competitor, low-cost exports from
2 New Zealand. We have still managed to gain a
3 significant and, in some cases, dominant market share
4 in a couple of those markets, as Vicki had mentioned.
5 How much additional potential areas? My sense is it's
6 pretty modest at this point unless those countries
7 really start developing their consumer sector.

8 In that case, the FTA in the broader picture
9 could be very beneficial because while the dairy part
10 may be modest, the economic development that would
11 come from opening the U.S. market to the more
12 important export product from those countries could
13 very well stimulate the development of the local
14 economies.

15 When that happens, the pattern is those
16 consumers start demanding more animal products
17 including dairy. To really do that analysis properly
18 we would have to do an analysis of what the impact
19 would be in all those other sectors and in the general
20 economy and that's what we look to the ITC and others
21 to do.

22 MR. LEAHY: I was looking for an easy
23 answer. Sometimes we need to look to your leadership

1 as well.

2 DR. VITALIANO: Thank you.

3 CHAIRPERSON SURO-BREDIE: Back to you, Chet.
4 Other questions from the panel? If not, thank you
5 very much for your testimony.

6 Our next witness is Juan Rodriguez and Juan
7 Guillermo on behalf of Northern Produce. I hope I got
8 that right.

9 MR. RODRIGUEZ: You did, indeed.

10 CHAIRPERSON SURO-BREDIE: Thank you,
11 gentlemen.

12 MR. GUILLERMO: Thank you very much for
13 giving us the opportunity to speak to you today about
14 an issue that we consider of extreme importance for
15 federal trade and investment in Guatemala for
16 Americans.

17 There is a level of lawlessness in what
18 Guatemala gives impunity and protection to corrupt
19 government and private businessmen. This impunity
20 lives without protection to those who lack the power
21 and the connections given to them by the economic
22 power.

23 We have been victims of judicial corruption

1 and impunity when we have been defrauded by majority
2 business partners in Guatemala and refused any
3 remedies by the Guatemalan judicial system. In the
4 process of those frauds, our counterparts evaded taxes
5 and under the proceeds of those frauds.

6 I denounced those frauds as tax evasion and
7 money laundering to Guatemala's Attorney General more
8 than a year ago but nothing was done about it. I went
9 to Guatemala to reiterate those denunciations not only
10 to the Attorney General but also to the congress in
11 several open hearings. Again, nothing has been done
12 about it. In the meantime, the press refused to cover
13 it and remained in silence even though I have provided
14 solid evidence of those frauds.

15 Judicial corruption is the biggest obstacle
16 to the liberalization and globalization of investments
17 and trade in the region. We request the United States
18 to provide dispute settlement procedures that can be
19 used to end the impunity that allows investors like
20 ourselves to be defrauded in Guatemala and makes us
21 witness to the very money that was taken from us with
22 impunity being used in the United States to invest in
23 different corporate forms to avoid seizure.

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1 It is time to take actions to combat public
2 and private corruption in countries like Guatemala and
3 to stop the money laundering activities that those
4 corrupt government officials and private business
5 perform with impunity in many occasions taking
6 advantage of the United States banking system.

7 We believe that unless this is done, there
8 will be no chance for fair trade or fair treatment for
9 American investors in Guatemala.

10 MR. RODRIGUEZ: And as an example, as you
11 know, I represent Juan Arturo Gutierrez and he is an
12 example of the judicial corruption that exist in
13 Guatemala.

14 We were litigating several corporate issues
15 in Guatemala and, I dare say, for the first time ever
16 that I've ever seen, a Guatemalan court, our
17 counterparts, were able to get an injunction from a
18 Guatemalan court preventing us from seeking redress in
19 the courts.

20 What was particularly amazing about that is
21 that they filed 19 separate lawsuits because the group
22 consist of 19 different companies. The 19 lawsuits
23 were blinding assigned to five different judges but

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1 the five different judges ruled the same way in
2 identically worded orders.

3 When you have five different judges that are
4 supposedly in five different courts ruling the same way
5 with identical orders, the inescapable conclusion is
6 that there was collusion. That order was eventually
7 reversed on appeal to the constitutional court in
8 Guatemala.

9 But just the fact that a court actually
10 entered an order preventing somebody from seeking
11 redress in the court and preventing him from even
12 filing a lawsuit is what is amazing. It is the reason
13 why we urge the committee to consider as part of the
14 Free Trade Agreement that investor protections have to
15 be included. Mandatory arbitration provisions, for
16 example, should be available so that investors could
17 seek some kind of a protection and not have to depend
18 upon a judiciary that everybody agrees is ineffective
19 and corrupt. Are there any questions?

20 CHAIRPERSON SURO-BREDIE: Yes, we do have
21 questions. Thank you. The first question by the U.S.
22 Trade Representative.

23 MR. FANTOZZI: Yes, thank you. Certainly

1 your story is one that is upsetting, I would say.
2 When you talk about dispute settlement, and in your
3 written statement you said you were interested in a
4 robust dispute settlement mechanism, you're talking
5 then about investor state dispute settlement or state-
6 to-state?

7 MR. RODRIGUEZ: Actually, we're talking
8 investor state. There has to be some kind of
9 alterative dispute mechanism that protects investors
10 and not depend upon a local judiciary.

11 MR. FANTOZZI: I see. Also, in your written
12 statement you talked about achieving measurable
13 results and liberalizing investment barriers. What
14 did you have in mind as measurable when you were
15 talking about, for example, measurable increase in
16 foreign investment or change of laws?

17 MR. RODRIGUEZ: One of the ideas that we had
18 thought of is a change in the corporate statutes of
19 these countries. For example, these countries do not
20 provide for protection of minority shareholder
21 interest. They don't provide for a purchase of a
22 minority shareholder's interest.

23 Countries like Canada or the United States,

1 most state statutes provide that a minority
2 shareholder that is being oppressed by a majority
3 shareholder in a corporation can force a buy-out at a
4 fair price of the shares.

5 Those types of protections that we have here
6 do not exist in Latin America. They don't even exist
7 in Mexico which is one of the model legislations in
8 corporate protections. That's what we mean, that part
9 of your negotiations is to demand that those type of
10 protections exist in legislation.

11 MR. FANTOZZI: Thank you.

12 CHAIRPERSON SURO-BREDIE: Our next question
13 is from the Department of the Treasury.

14 MS. SANMIGUEL: How do you expect that the
15 specific provisions of a proposed U.S. capita
16 agreement would meet your objectives?

17 MR. RODRIGUEZ: I think the alternative
18 dispute resolution mechanisms would meet our
19 objectives. Right now we're been relegated to suing
20 in Guatemala for internal corporate governance issues
21 because that's the only place that we can litigate the
22 issues dealing with the shareholder protection and
23 issues dealing with annual meetings and that type of

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1 thing.

2 We also have remedies in the United States.
3 We have sued in federal court in the United States,
4 District Court of Miami, under the Federal Rico Act
5 for money laundering. We have also sued in the state
6 courts of Miami, Dade County, seeking attachments of
7 assets that we believe are the proceeds of fraud. Our
8 objectives would be more efficiently met if we had an
9 alternative dispute mechanism like an arbitration
10 provision as part of the agreement.

11 MS. SANMIGUEL: Actually, I have another
12 question. You spoke specifically about Guatemala and
13 I'm wondering if you've seen any differences between
14 the other countries? I mean, you said that the legal
15 framework is probably not as good as or is equal
16 across the board but I'm wondering if there are any
17 differences that you've noted?

18 MR. RODRIGUEZ: I have not noted any
19 differences. I work very closely with a professor of
20 international trade and law the University of Florida
21 College of Law. His name is Michael Gordon and
22 Professor Gordon and I when we were thinking about how
23 you change the law in Guatemala, we actually did look

1 at other legislations. There has been some change in
2 the corporate code of Mexico to provide more
3 protection from minority shareholder interest.

4 In fact, we actually suggested to some of
5 our colleagues in other countries that they ought to
6 look to Mexico as an example. Other than Mexico, I
7 would say that they are pretty much all the same and
8 they don't provide any type of protection for minority
9 shareholders.

10 MR. FANTOZZI: I'm just wondering have you
11 been in contact with the American Embassy in Guatemala
12 about this issue?

13 MR. RODRIGUEZ: No, we have not.

14 MR. FANTOZZI: It's something you might want
15 to think about.

16 CHAIRPERSON SURO-BREDIE: Thank you very
17 much.

18 MR. RODRIGUEZ: Thank you.

19 CHAIRPERSON SURO-BREDIE: The next witness
20 is Michael P. Daniels, International Trade Counsel,
21 Footwear Distributors and Retailers of America.

22 MR. DANIELS: Thank you. Members of the
23 committee, I am Michael P. Daniels, a consultant to

1 the law firm of Sidley, Austin, Ground, and Wood LLP.
2 I'm International Trade Counsel to the Footwear
3 Distributors and Retailers of America, FDRA.

4 Mr. Mangion, the President of FDRA, is out
5 of the country. He would have testified as he has
6 before in many of your proceedings but I'm taking his
7 place today.

8 FDRA members account for approximately
9 three-quarters of all footwear sold at retail in the
10 U.S. and the vast bulk of imported footwear into the
11 U.S. We are pleased to appear today to urge that all
12 duties on footwear imported into the U.S. be
13 eliminated entirely on the first day of implementation
14 of a Free Trade Agreement between the United States
15 and Central America.

16 We make this recommendation for several
17 reasons. First, with import penetration of the
18 footwear sector at 97 percent based on 2001 data,
19 probably higher if we had 2002 data, duties on
20 footwear have lost all relevance and have no
21 commercial significance. This is so because the price
22 of imported footwear after application of duties is
23 vastly cheaper than U.S. produced shoes.

1 Indeed, the differential between U.S.
2 manufactured and imported shoes ranges after
3 application of U.S. duties from between 60 percent
4 lower to 40 percent lower depending on category.
5 Clearly U.S. producers long ago lost the price battle
6 with imports and the price adjustment mechanism
7 tariffs are, thus, irrelevant and pointless.

8 Second, there's no connection between
9 continuance of tariffs and U.S. footwear manufacturing
10 and its jobs. The little remaining U.S. shoe
11 production only survives by differentiating itself on
12 bases other than price such as brands, product
13 positioning, size and width strategy, and the like.

14 Indeed, in its most recent footwear
15 investigation involving shoe duties under NAFTA, the
16 ITC concluded that, "Domestically produced footwear
17 articles compete mostly on nonprice factors such as
18 brand names, product quality, and differentiation and
19 support services. We agree. Elimination of duties
20 will not affect these strategies.

21 Third, shoe duties are a huge consumer tax.
22 In 2001 more than \$1.6 billion was paid to the
23 treasury in shoe duties which amounts to some \$3.2

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1 billion at retail applying normal markups. With only
2 19,800 U.S. workers in the low duty shoe area --
3 that's non-rubber footwear -- the cost is some
4 \$107,000 per job. The job costs in the high duty area
5 of rubber footwear where there is some 2,600 shoe
6 manufacturing jobs is approximately \$430,000 per job.

7 Fourth, it is clear that the shoe industries
8 of the five Central American countries are small, have
9 limited export capacity and pose no real threat to
10 remaining U.S. shoe producers. Duty-free status for
11 Mexico, the DBI and sub-Saharan Africa have produced
12 almost nothing in the way of new shoe imports and we
13 see no reason why duty free status for these new
14 countries would have any different impact.

15 We also note that the five Central American
16 countries are part of the Caribbean Basin Initiative
17 and, thus, enjoy NAFTA parity. All non-rubber
18 footwear has zero duties under NAFTA and there is a
19 consensus in the sector that such footwear should be
20 zero immediately after under the FTA. That is to say,
21 by all of the relevant associations involved.

22 Zero duties on some key rubber footwear
23 items, however, do not come into effect until January

1 1, 2008, under NAFTA. This includes the 17 items
2 enumerated by the Rubber and Plastic Footwear
3 Manufacturers Association and five other rubber
4 footwear items which have now been declared by the
5 Rubber and Plastic Footwear Manufacturers Association
6 not to be manufactured in the U.S. This was a letter
7 subsequent to the acceleration process.

8 We believe that all of these items should
9 have zero duties on the first day of implementation of
10 this FTA. We also believe this FTA could
11 significantly improve market access from these
12 countries for footwear into the U.S. if the special
13 NAFTA rules on country of origin and local content
14 were not followed.

15 We support the utilization of a country of
16 origin rule where origin for preference purposes is
17 conferred by the place of final assembly. This is the
18 general U.S. rule on country of origin and should
19 confer the preference in the FTA.

20 The special NAFTA rule for footwear under
21 which the preference is available to footwear products
22 only when the upper is stitched in a NAFTA territory
23 is necessarily restrictive and has not served U.S.

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1 sourcing companies very well.

2 We also support a local content rule for
3 footwear set forth in the Generalized System of
4 Preference, GSP, and in the Africa Growth and
5 Opportunity Act, AGOA. Under those provisions a
6 footwear product qualifies for duty free treatment
7 provided that at least 35 percent of the value is
8 added in the territory and that as much as 15
9 percentage points of that may be satisfied by U.S.
10 materials.

11 Thank you very much. I think the members of
12 the committee are familiar with this. We have
13 testified in DOHA proceedings and FTAA, but I would be
14 pleased to answer questions to the limit of my
15 expertise.

16 MR. FANTOZZI: Thank you very much. Since
17 I'm relatively new to this, I'm not familiar with it
18 and found your testimony very interesting.

19 The first question that we have is Customs.

20 MS. SAUCEDA: Mr. Daniels, you state in your
21 testimony that duty-free status for Mexico to CBI and
22 sub-Saharan African have produced almost nothing in
23 the way of new shoe imports. We see no reason why

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1 duty-free status for these new countries would have
2 any different impact.

3 It was kind of a follow-up to that
4 statement. This is kind of three-pronged. Bear with
5 me and I'll be more than happy to repeat them. Do
6 your member companies currently purchase footwear from
7 Central America? If so, a little bit more
8 specifically to what extent?

9 Although you seem to be projecting that
10 there wouldn't be much of an impact, would you like to
11 state why you don't foresee an increase or maybe
12 elaborate a little more on that, please?

13 MR. DANIELS: The answer to the first
14 question, do the member companies import, I will have
15 to supply that. I don't know. There may be some
16 small imports. You want to know how much? Is that
17 it?

18 MS. SAUCEDA: Yes.

19 MR. DANIELS: Okay. That also I would like
20 to supply at a later time. The answer to the third
21 question is, I think, two-part. Number one, it's a
22 question of capacity and the necessity of investment
23 to build any kind of capacity that would be

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1 significant.

2 It's very doubtful that people would put
3 investment money in this area because it is not as
4 attractive a manufacturing place as China which has
5 tremendous expertise, built-in capacity, established
6 trade patterns, and is extremely competitive in price.

7 Even with low-cost producers in Central
8 America whether they will be able to significantly
9 compete with China, even with zero duties. It gives
10 them some opportunity and there may be some
11 possibility of expanding their exports very modestly.

12 I think those are really the answers. But,
13 you know, our association is in favor of an open
14 market for footwear so that if they can produce and
15 have this opportunity, we think they should be given
16 the opportunity.

17 MS. SAUCEDA: Thank you very much.

18 MR. FANTOZZI: Our next question is from
19 Commerce.

20 MR. DANIELS: Pardon me just one second.
21 The last question was why do we think they couldn't do
22 it. Is that correct?

23 MS. SAUCEDA: In support of the statement

1 that you make within your testimony.

2 MR. DANIELS: Okay. We'd be happy to answer
3 that.

4 MS. SAUCEDA: Thank you.

5 MR. FANTOZZI: Our next question is from
6 Commerce.

7 MS. HEINZEN: Mr. Daniels, you talk about in
8 your written testimony the special NAFTA rule or
9 origin for footwear and that it was unnecessarily
10 restrictive.

11 MR. DANIELS: Yes.

12 MS. HEINZEN: Based on your experience can
13 you further elaborate on the nature of this
14 restrictiveness and whether in your view it has had an
15 adverse affect on U.S. distributors of these products?

16 MR. DANIELS: Yeah. You know, under the
17 NAFTA rules 55 percent of the product must be of NAFTA
18 origin. The uppers must be manufactured in a NAFTA
19 country. This absolutely precludes uppers coming in
20 from China, Indonesia, other producers in the Far
21 East.

22 It's our belief that this is the only way
23 that Mexico or the Central American countries could

1 possibly enter this market, and that is by importing
2 the uppers, assembling them there, and sending them
3 into the United States as an assembly industry.

4 We think it would be -- you know, this is
5 where there is the potential for these countries to
6 come in and answer your question. With these rules
7 nobody wants to go there really.

8 MS. HEINZEN: If as in your proposal all
9 rubber footwear items went to zero duties immediately
10 upon implementation of the proposed FTA, what would
11 you expect the impact to be on the U.S. rubber
12 manufacturing industry?

13 MR. DANIELS: Zero. No impact whatsoever
14 because I don't think, first of all, there would be
15 large imports from these countries. Secondly,
16 whatever production exist now is competing against
17 China, Indonesia, Thailand, other producers who are
18 much more efficient producers and could beat out these
19 prices.

20 If they exist now, they are existing because
21 of the factors that I enumerated which are style,
22 brand, particularly brand names, size and width,
23 strategy such as balance as capitalized on.

1 MR. FANTOZZI: Okay. We have another
2 question from Customs.

3 MS. SAUCEDA: I think you in some respects
4 have answered this partially but when looking at the
5 importation of shoes from the CAFTA countries versus
6 Asian producers, you said they cannot compete even
7 with zero duties but do you have any idea about cost
8 comparison between shoes from the two countries?

9 MR. DANIELS: That's very hard. First of
10 all, I couldn't answer that. I doubt that we could do
11 that kind of comparison. There is so little in the
12 way of imports and they are probably different. I
13 will refer this to Mr. Mangion when he comes back to
14 see, you know, and try to answer this question.

15 MS. SAUCEDA: Thank you very much.

16 MS. HEINZEN: I have another question.
17 You've given us the impression that you don't
18 anticipate this to be a significant area of trade
19 under the FTA. Correct me if I'm wrong. Would the
20 zero duties -- what kind of potential do you think it
21 would develop for Central America with the zero duties
22 that you've indicated, the duties from the Asian
23 imports is a cost problem.

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1 MR. DANIELS: I'm not sure I understand your
2 question.

3 MS. HEINZEN: You've indicated that
4 importing -- you've talked about the duties and
5 importing products and how that is a burden on U.S.
6 consumers. Then you say you want duty-free treatment
7 for this products out of Central America. Do you have
8 any idea what impact that would have on production in
9 Central America for footwear?

10 MR. DANIELS: I really don't know. I think
11 people would explore it very seriously to see if it
12 was feasible. People in this trade are always looking
13 for other sources and are uncomfortable with having so
14 much in China. I imagine there would be an
15 exploration of Central America. What the results of
16 that investigation would be I don't know.

17 CHAIRPERSON SURO-BREDIE: Thank you very
18 much, Mr. Daniels.

19 MR. DANIELS: Thank you.

20 CHAIRPERSON SURO-BREDIE: Our next witness
21 is Jerry Cook, Vice President of International Trade,
22 Sara Lee Knit Branded Apparel.

23 MR. COOK: Good morning.

1 CHAIRPERSON SURO-BREDIE: Good morning.

2 MR. COOK: Thank you for the opportunity to
3 be here today. My name is Jerry Cook. I am Vice
4 President of International Trade for Sara Lee Knit
5 Branded Apparel. If it's okay with everyone, I'll
6 summarize my written comments.

7 I am here today on behalf of the Business
8 Coalition for U.S.-Central America Trade, of which
9 Sara Lee is a member, and the Emergency Committee for
10 American Trade, which serves as a secretariat to the
11 Coalition and of which Sara Lee is also a member.

12 In background, I am a member of the ISAC 15
13 and Sara Lee is a charter member of the CTPAC program
14 with the U.S. Customs Service. The Business Coalition
15 for U.S.-Central America Trade is made up of U.S.
16 companies and associations that support the
17 negotiation of a comprehensive, high-standard, and
18 commercially-strong Free Trade Agreement with the
19 Central American governments of Costa Rica, El
20 Salvador, Guatemala, Honduras and Nicaragua.

21 The Coalition's members represent the
22 principal sectors of the U.S. economy, including
23 manufacturing, merchandising, processing, publishing,

1 services and shipping. You'll hear testimony later
2 this morning from two of our members, the American
3 Apparel and Footwear Association and the Caribbean
4 Latin American Action Group.

5 I want to highlight the importance of
6 negotiating and implementing a comprehensive and high
7 standard U.S. Central America Free Trade Agreement:
8 The need to proceed quickly with a goal of concluding
9 these negotiations within the next calendar year; the
10 challenge of addressing the complex issues that these
11 negotiations will raise; and, fourth, the interest of
12 the U.S. business community in working with you and
13 the Congress during the negotiation and the
14 implementation of high-standard agreement.

15 The importance of negotiating and
16 implementing a comprehensive and high standard U.S.-
17 Central American Free Trade Agreement we believe by
18 tearing down barriers to the intro-regional trade that
19 CAFTA would build a vibrant expanding integrated
20 market place of nearly \$34 million people with a
21 combined regional GDP of \$56 billion.

22 By opening markets in the region and
23 strengthening in the rule of law, a high-standard

1 CAFTA would trigger an expansion of regional trade and
2 investment flow. Central America is our 20th largest
3 overall trading partner with total exports and imports
4 totaling over \$20 billion in trade exceeding U.S.
5 trade with key trading partners such as Australia,
6 Sweden, Chile, Russia, and Spain.

7 Central America also represents our 18th
8 largest export market on par with such industrialized
9 countries as Switzerland and Italy. U.S. exports to
10 the region account for over 40 percent of Central
11 America's imports and include a wide variety of goods
12 and services from electrical machinery, computers,
13 motor vehicles, textile apparel, chemicals, food,
14 agricultural products to financial services and energy
15 services. U.S. investment in the region already
16 accounts for half the total foreign investment in
17 Central America.

18 To promote expanded trade and investment
19 with Central America. Therefore, we strongly support
20 our negotiator's efforts to achieve a comprehensive
21 and very high-standard agreement that focuses on
22 liberalized trade, investment, protection of
23 intellectual property rights, and dismantling barriers

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1 to trade in goods and services and strengthen
2 transparency and, most importantly, the rule of law.

3 Such agreement would not only expand
4 opportunity for American companies, workers, farmers,
5 in the Central American countries, but would represent
6 a significant model for market opening and greater
7 liberalization for the region.

8 These negotiations also represent a very
9 unique opportunity not only for American farmers,
10 business and workers, but also for promoting the
11 development, the rule of law, increase regional
12 security along a third border.

13 The Coalition supports our negotiator's
14 efforts to proceed quickly in the new year with a goal
15 of concluding these negotiations as early as calendar
16 year 2003 as possible.

17 Given close proximity to these countries
18 that have developed into our third border, it's
19 critical to help solidify such an economic and
20 security agreement in the partnerships that have
21 already helped promote regional stability, democracy
22 in market-oriented economies.

23 Our high-standard, commercially-acceptable

1 agreement is just what is needed to strengthen the
2 stability and the security within our region.
3 Further, the broader importance of these negotiations
4 to set a model and help spur market opening and
5 greater liberalization in the region, include those
6 negotiations to establish the free trade of the
7 Americas which will be lost if these negotiations are
8 allowed to languish.

9 Thirdly, at the same time the coalition
10 believes that such an agreement must represent a
11 comprehensive and high-standard agreement. This will
12 require addressing some of the complex issues in the
13 area.

14 One, how best to address the rules of origin
15 in a manner that will foster efficient, commercially
16 based trade flows in a region without conflict under
17 three different FTAs; NAFTA, Chile, and Central
18 America.

19 Second, how best to ensure improved
20 protection for investment and intellectual property
21 when there are already concerns about the capacity of
22 these countries to meet existing commitments.

23 Finally, how best to promote the rule of law

1 and U.S. negotiating objectives, priorities in such
2 sensitive areas as labor and environment as required
3 by the Trade Act of 2002. We believe that our
4 negotiators can develop innovative and meaningful ways
5 to deal with these issues and input from the business
6 sectors and others.

7 We urge the administration to confront such
8 complex issues early enough to make a real difference,
9 particularly in the areas where capacity building
10 programs during negotiations could have a significant
11 impact.

12 We also urge the administration to seek a
13 high level of commitment to serve as a model for other
14 regional trade agreements. By the creation of a
15 commercially viable agreement that operates seven days
16 a week, we believe that CAFTA represents an
17 opportunity that should not be lost.

18 On behalf of the U.S. Business Coalition for
19 U.S.-Central America trade we are ready to work with
20 the administration, Congress, and a broad public on
21 ensuring negotiation and implementation of a
22 comprehensive and high-standard agreement.

23 CHAIRPERSON SURO-BREDIE: Thank you very

1 much.

2 Our first question will be by the Department
3 of Commerce.

4 MS. HEINZEN: Good morning, Mr. Cook. Prior
5 to asking my question, is it possible for us to get a
6 specific list of companies that are members of your
7 coalition?

8 MR. COOK: Sure.

9 CHAIRPERSON SURO-BREDIE: I'm sorry. Could
10 you e-mail that to GBLUE@USTR.GOV and she'll serve it
11 to the panel.

12 MS. HEINZEN: In your written testimony in
13 addition to the percentage you cite on U.S. imports in
14 five CAFTA countries that currently enter duty free
15 under the U.S. preference programs, another
16 approximately 30 percent enter duty free under the
17 normal NFN rate of zero. What sectors, therefore, do
18 you see expanded trade opportunities or tariffs
19 reduced under the Free Trade Agreement?

20 MR. COOK: I see it in three parts. One,
21 certainly the existing programs today have limitations
22 on them and the limitations both in the short-term.
23 You take the CBTPA legislation that was recently

1 passed and enacted by the administration has a limited
2 life span and also somewhat of a narrow useability
3 where we actually restrict our ability to use U.S.
4 content in the region because some of those rules.

5 The second, which is more important, is by
6 developing a very vibrant process and getting to a
7 seven-day shipping you can actually enhance the
8 overall amount of demand because you move from an
9 Asian platform, which is 30 to 60 days out of
10 shipping, to a nearby third-border program which just
11 the speed of delivery and the product accessibility in
12 itself would grow within the region.

13 Finally, having the intellectual and
14 investment protections that companies need for making
15 and protecting their publishing, satellite, TV,
16 pharmaceuticals, and other intellectual copyrights
17 makes it a more attractive place to make that
18 investment and to develop business not only in the
19 region but between the region and the U.S.

20 MS. HEINZEN: Do you have particular product
21 sectors you think the Free Trade Agreement will
22 further enhance?

23 MR. COOK: I think the CAFTA has the ability

1 to enhance quite a few of them. I think you could see
2 certainly the energy area. I think you could see
3 certainly in the pharmaceutical area. I think you
4 could see an expanded role in textile and apparel. I
5 think you'll see an expanded ability of food products,
6 financial services which would include insurance,
7 banking.

8 I think you go beyond that and you look into
9 the publishing area to the media. There's a variety
10 of opportunities. The region is extremely cordial to
11 U.S. corporations and likewise the U.S. has been an
12 extremely beneficial of the proximity.

13 I think, finally, you develop a third border
14 security. This is the third border for the United
15 States and the success that the United States and the
16 regions have over the last 15 years has made it a very
17 economically rich area.

18 CHAIRPERSON SURO-BREDIE: Our next question
19 by the U.S. Trade Representative.

20 MR. FANTOZZI: Thank you. You mentioned
21 trade capacity building. I actually have a two-part
22 question. You mentioned trade capacity building. Of
23 the problem areas that you listed, do you give any of

1 them priority over others for trade capacity building,
2 number one? And the second question is do any of the
3 organizations that you are representing provide some
4 sort of trade capacity building in the region.

5 MR. COOK: On the first question as far as
6 what areas, I don't think there's any particular one
7 that's sitting there. I think if you -- the most
8 important factor is protection of the intellectual
9 property right and the rule of law.

10 That ability to have your investment of
11 intellectual capital and your shareholder capital
12 protected creates a tremendous amount of goodwill and
13 security for companies to go down and invest in the
14 region and develop and hybrid there between the United
15 States and Central America because the alternative is
16 to go further away to Asia, the Mid East. I think the
17 proximity gives a great value.

18 As far as which sectors can you have
19 capacity building as far as the manufacturing, I think
20 it pretty much goes across the gambit. You see today
21 in the region investment and medical, pharmaceutical,
22 textile, apparel, energy. I think unlike other places
23 in the world, you actually have the ability to

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1 increase capacity across a broad range fairly quickly
2 by having the certainty of a permanent trade
3 agreement.

4 As far as within the group, particularly the
5 coalition, I think when you look at it on a overall
6 capacity, the fact that many of the companies and
7 associations have members who today are active
8 investors in the region who have twin relationships.

9 In our case we have both sales and
10 manufacturing in the region where we take product from
11 Central America and the United States and it's
12 exported to 65 other nations is fairly unique in the
13 world. This is one of the few places you can actually
14 do that. The absence of a permanent relationship with
15 the United States, though, has impacted its ability to
16 attract that type of important investment.

17 When you look today versus going forward,
18 Central America has lost the investment incentive. It
19 has had a downward spiral of new investment going into
20 the region which is from an overall perspective has
21 created a lot of the democracy and social and economic
22 reforms.

23 I think we are at a risk by not going

1 forward with the CAFTA of creating somewhat of not
2 taking advantage of building the third border of
3 economic security which has really been our mainstay
4 for the last 15 years.

5 MR. FANTOZZI: Thank you.

6 CHAIRPERSON SURO-BREDIE: Thank you very
7 much. The next question from the Department of
8 Treasury.

9 MS. SANMIGUEL: The quota system will expire
10 in 2005 and I'm wondering with regard to Central
11 America what your recommendations are, what we should
12 take into consideration regarding implementation.

13 MR. COOK: Sure. The quota system as
14 relates to Central Americas is probably somewhat of a
15 more scarier thing if you're a Central American
16 economy today for two reasons. One, the extremely
17 complex and litigious rules of origin in the CBI,
18 particularly using U.S. product has resulted in both
19 capping our ability in the region by the special use
20 of what are called sub-silos.

21 For instance, in CBTPA you can only use U.S.
22 yarn, U.S. fabric cut to ship to the United States, or
23 you can have in a plant U.S. yarn, U.S. fabric dyed in

1 the United States, cut in the region, sewn with the
2 U.S. sewing thread. But you're not allowed to
3 commingle those two products together although all the
4 origins qualify which means that in the region we have
5 denied them the ability to have flexibility.

6 The one thing they have is speed that we've
7 taken away from them because of the way we've
8 implemented a lot of rules of origin which is the main
9 driving point of being in a region. It's not below
10 cost location like Asia. Their key advantage as a
11 region is proximity, capacity, flexibility.

12 The second part of that is we've not given
13 them, nor have we really done ourselves, justice with
14 the third border by giving them seven-day flexibility
15 back and forth between the two economies.

16 When I look out at 2005 the two pieces, one
17 is there has to be simple, practical, commercially
18 viable rules in textile and apparel. The second one
19 is the process in which we enforce those rules need to
20 be trade friendly.

21 What's happened is that because of the fear
22 of trans-shipping it's just easier for people when
23 it's the flip of a coin just to go ahead and go to

1 China because we have incentivized people not to produce
2 in the region because of the fear of enforcement and
3 the cost of litigation so people in a flip of the coin
4 go to China.

5 When I look to the region to the future, the
6 three biggest things we could give them is transparent
7 rules, easy to administer the duty-free quota-free
8 they have and give them the seven-day, 24-hour access
9 to the United States by running the borders.

10 Conversely you're there securing the borders
11 today. The Customs Service does a wonderful job of
12 that. Giving them the seven-day funding gives the
13 region that added incentive to be a position of
14 velocity as compared to Asia which is time and
15 distance.

16 MS. SAUCEDA: May I ask a question?

17 CHAIRPERSON SURO-BREDIE: Yes, please.

18 MS. SAUCEDA: Jerry, in your role at Sara
19 Lee what are the five countries -- in which of these
20 five countries do you currently have operations?

21 MR. COOK: In all of them.

22 MS. SAUCEDA: In all five?

23 MR. COOK: Right. We're pretty much in

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1 almost every country in the Caribbean.

2 CHAIRPERSON SURO-BREDIE: Thank you.

3 MR. COOK: Sure. Thank you.

4 CHAIRPERSON SURO-BREDIE: Our next witness
5 is Steve Lamar, American Apparel and Footwear
6 Association.

7 MR. LAMAR: Good morning.

8 CHAIRPERSON SURO-BREDIE: Welcome, Mr.
9 Lamar.

10 MR. LAMAR: Thank you. On behalf of the
11 American Apparel and Footwear Association, the U.S.
12 National Trade Association, the Apparel and Footwear
13 Industries, I'm pleased to offer comments on the U.S.
14 Central America Free Trade Agreement, CAFTA.

15 As a general comment I would like to
16 associate my remarks with those that you just heard
17 from Jerry Cook representing the Business Coalition
18 for U.S. Central America Trade, a coalition that we've
19 joined to help advance this very important trade
20 agreement.

21 It's absolutely critical that we swiftly
22 negotiate and implement the CAFTA at the earliest
23 possible moment if we have any hope of developing a

1 commercially meaningful and permanent relationship
2 with this region.

3 My written testimony goes into more detail
4 on several key issues from my members. Right now I
5 would like to focus on a few of the high points.

6 First, the over-arching goal of the CAFTA
7 should be to provide an efficient means to
8 manufacture, distribute, and service customer demands
9 within the U.S. and the Central American region. The
10 ability to operate in a transparent and predictable
11 business environment, free of all tariff and non-
12 tariff barriers is paramount.

13 Second, the final CAFTA agreement should
14 explicitly provide docking provisions for those goods
15 that are currently afforded duty-free entry into the
16 Caribbean Basin Trade Partnership Act. Because this
17 program expires for beneficiary countries once a CAFTA
18 would take effect, it's imperative that the benefits
19 conferred by those provisions be captured in a
20 seamless manner -- no pun intended -- by the CAFTA
21 such that companies operating under those programs not
22 experience any gaps in market access.

23 Third, tariff phase-outs for textile,

1 apparel, and footwear products -- by this I'm really
2 looking at non-rubber footwear products -- under the
3 CAFTA should occur immediately.

4 Trade in these products and their various
5 partnership agreements has occurred for nearly two
6 decades. We see no reason to delay full
7 liberalization of this partnership any further. In
8 fact, given the enormous challenges that the textile
9 and apparel industries will undergo in the coming
10 years, especially with the elimination of quota in
11 2005, we believe the case for immediate duty
12 elimination for those products is even more
13 compelling.

14 Fourth, we strongly favor rule of origin
15 that permits maximum flexibility for the production of
16 those products under the CAFTA. The goal of the CAFTA
17 should be to encourage production under the regional
18 framework, not discourage it through burdensome rules
19 as has been the case under NAFTA and, in some cases,
20 the Caribbean Basin.

21 Restrictive rules while appearing to promote
22 the use of U.S. or regional inputs often impose
23 restraints that drive production and trade out of the

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1 free trade area. Our restrictive approach also
2 discourages cumulating with other countries with which
3 the United States has signed or pursued free or
4 preferential trade arrangements.

5 There currently exist little ability to
6 accumulate inputs, for example, between the NAFTA, the
7 Israeli and Jordan FTAs, the various preference
8 agreements that are out there. This is a policy that
9 to us make little commercial sense. We believe U.S.
10 trade policy should interlock those various Free Trade
11 Agreements, not mutually exclude them through
12 restrictive rules.

13 Fifth, the CAFTA should incorporate common
14 sense Customs operations and procedures including
15 documentation requirements which reflect actual
16 practices of the trade. A company should not be
17 required to keep or file paperwork that is now kept in
18 electronic format which is no longer generated for
19 legitimate commercial reasons.

20 Extraneous paperwork provides logistically
21 obstacles and cost that can greatly undermine the
22 gains associated with the CAFTA. At the same time we
23 strongly favor harmonization of Customs operations to

1 encourage the border-free environment within the
2 region on a 24-hour, seven-day-a-week operation.

3 Sixth, the final CAFTA should account for
4 many of the private initiatives through which
5 companies ensure that production occurs using sound,
6 labor, and environmental practices. AA itself has
7 endorsed the world-wide Responsible Apparel Production
8 Program which contains 12 principles that are
9 monitored through an independent factory inspection
10 program. All five of the CAFTA countries have
11 endorsed this program as well.

12 Finally, I strongly believe that the
13 Dominican Republic should be included in the CAFTA
14 process in some way. Many of our members on both the
15 apparel and footwear side are producing in the
16 Dominican Republic have been encouraged to do so
17 through long-standing government policy that has
18 promoted the entire Caribbean Basin.

19 We are concerned that excluding this country
20 encourages our members to choose between the DR and
21 Central America instead of promoting partnerships
22 among all six of those countries as is currently the
23 case.

1 With that, I'm ready to answer any questions
2 that you may have. Thank you.

3 CHAIRPERSON SURO-BREDIE: Thank you very
4 much, Mr. Lamar. Our first question will be by the
5 U.S. Trade Representative's office.

6 MR. FANTOZZI: Yes. Thank you. How
7 important are CAFTA countries to your members in
8 comparison with other countries that have U.S.
9 preferences?

10 MR. LAMAR: Very important. It's probably
11 about 15 percent of the apparel we source in the
12 region. A lot of my membership particularly spent a
13 lot of time going through the Caribbean Basin putting
14 either investment down there or developing sourcing
15 partnerships for the last several decades responding
16 to the various government initiatives starting with
17 the Caribbean Basin initiative, special access program
18 through the Caribbean Basin Trade Partnership Act so
19 it's very, very important for our membership.

20 MR. FANTOZZI: I'm sorry. Did you say 15
21 percent?

22 MR. LAMAR: Yeah, about 15 percent.

23 MR. FANTOZZI: Thank you.

1 MR. LAMAR: This is 15 percent of all
2 apparel, for example, is sourced down there. In terms
3 of footwear, obviously it's much, much smaller. Most
4 of the work comes from China but we do have some
5 production in the region, primarily in the Dominican
6 Republic. Again, another reason why we would like to
7 see the Dominican Republic brought into this frame
8 work in some way.

9 MR. FANTOZZI: Thank you.

10 CHAIRPERSON SURO-BREDIE: The next question
11 by the Department of Commerce.

12 MS. HEINZEN: Mr. Lamar, do you foresee that
13 more of your apparel members trade in economic
14 activity would occur with CAFTA if tariffs were phased
15 out? If so, by how much would you expect it to
16 increase?

17 MR. LAMAR: I would anticipate it would
18 grow. I think a lot of it depends upon how quickly
19 the tariffs are phased out and how usable the eventual
20 program is. If it's a program that is not flexible
21 enough in terms of the rule of origin, or if it
22 creates -- I think what Jerry was talking about
23 before, the silo effect of not enough flexibility

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1 between the different ways you can produce garments
2 and footwear down in the region, then that would make
3 it less likely that people would respond to that
4 initiative.

5 Again, obviously people will be looking for
6 a kind of incentive that would be created through the
7 Customs operations as well. I think the potential is
8 very great and it just depend upon how we see it come
9 through in the delivery and how fast.

10 CHAIRPERSON SURO-BREDIE: Question?

11 MS. SANMIGUEL: You just stated previously
12 that restrictive rules of origin while appearing to
13 promote the use of U.S. or regional inputs merely
14 imposes restraints that drive protection and trade out
15 of the free trade area. Could you perhaps provide
16 maybe some specific examples and discuss this a little
17 bit more in detail if possible?

18 MR. LAMAR: For example, if you can't find
19 a fabric in the United States, right now you've got to
20 go through a short supply procedure to use, for
21 example, the Caribbean Basin Trade Partnership Act.
22 That procedure takes about four months from the time
23 you initiate the petition which is several months

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1 after you have gone through the due diligence to
2 figure out whether or not the product is even
3 available.

4 It takes about four months to the point
5 where you actually get a Federal Register notice, a
6 positive determination that you can use it. You may
7 be looking at a process that is six, seven, eight
8 months long before you can generate the permission to
9 use an input that you can't find in the United States.
10 By then you may have lost the season when you were
11 looking for the product.

12 I've talked to a number of members who when
13 faced with that sort of analysis, they'll say, "Do I
14 want to spend eight months trying to figure this out
15 or do I want to send my production to China directly."
16 They'll do that. I can follow up with other examples
17 for you if you would like through Gloria who would be
18 happy to do that.

19 MS. SANMIGUEL: Please. That's very good.
20 Thank you very much.

21 CHAIRPERSON SURO-BREDIE: The last question
22 from the Department of Commerce.

23 MS. HEINZEN: You state that tariff

1 phaseouts for textile and apparel and footwear
2 products under CAFTA would occur immediately. What
3 effect do you foresee the tariff phaseouts having on
4 domestic manufacturers of apparel garments and
5 footwear?

6 MR. LAMAR: I'm talking primarily nonrubber
7 footwear. The nonrubber footwear folks are largely
8 offshore so if you are immediately reducing that,
9 that's a question of shifting production between
10 countries like China and the Central American
11 countries. It's unclear whether we're going to see a
12 lot or a little or a token amount on the nonrubber
13 footwear side, but certainly you're not going to see
14 a real impact in the United States.

15 For textiles and apparel, I think actually
16 one of the things that the industry really needs to
17 see to compete with 2005 is a great incentive
18 structure that captures as much of the apparel
19 production in this hemisphere as possible in that
20 region.

21 The more apparel that we are producing in
22 this hemisphere, the more demand you are creating for
23 U.S. textile products for cut parts that are -- for

1 fabric that's cut in the United States, for findings,
2 trimmings, for the yarn that goes into this, for the
3 cotton that goes into the yarn.

4 The more production you are stimulating in
5 this hemisphere, the more of a market you are creating
6 for all these U.S. inputs. The faster that you can
7 put this in place, the better that market is going to
8 be. If that market takes some time to be put in place
9 on a permanent basis, then you are going to see the
10 demands of the other sourcing programs that are out
11 there.

12 As the quotas phase out, other preference
13 agreements that are out there start to pull more of
14 that production away from the hemisphere into
15 countries like in Asia or elsewhere. When you do
16 that, you lose U.S. input, cotton, yarn, fabrics,
17 findings, trimmings, etc. Actually I would say that
18 if you promote the acceleration as fast as you
19 possible can under the CAFTA, then you are probably
20 going to see a benefit for employment for these
21 industries.

22 CHAIRPERSON SURO-BREDIE: Other questions?

23 Thank you very much.

1 MR. LAMAR: Thank you.

2 CHAIRPERSON SURO-BREDIE: The next witness
3 is Mitchell Cooper, counsel to the Rubber and Plastic
4 Footwear Manufacturers Association.

5 Welcome, Mr. Cooper.

6 MR. COOPER: Good morning. This
7 investigation, as you know, follows upon
8 investigations dealing with possible Free Trade
9 Agreements with Singapore, with Chile, with the free
10 trade area of the Americas countries, with Taiwan,
11 with the possible reduction of duties in the DOHA
12 round, as well as with the elimination of exceptions
13 to duty-free treatment in the Andean Trade Preference
14 Act.

15 The Rubber and Plastic Footwear
16 Manufacturers Association testified before the ITC
17 and/or the TPSC in each of those investigations. The
18 arguments we advanced then are equally valid with
19 respect to Central America.

20 If a Free Trade Agreement with Central
21 America does not make an exception for an industry as
22 hard hit by imports as rubber footwear, the effect of
23 such an agreement could be devastating to this

1 industry. Low-cost competition has reached the point
2 where imports now take up 95 percent of the domestic
3 market for fabric-upper rubber-soled footwear and more
4 than 60 percent of the domestic market for protective
5 footwear.

6 The companies which remain in this industry
7 represent the survival of the fittest. They have
8 every intention of continuing to produce in the United
9 States provided there is no further erosion in their
10 duty structure and no additional inducement for them
11 to shift their production abroad.

12 Duty-free treatment for imports from
13 countries with such a large labor force and such a low
14 wage base as those in Central America would provide
15 such an inducement.

16 I would point out to you that every one of
17 the companies which I represent is an importer as well
18 as a domestic producer. Thus far the balance of their
19 interest has been in the domestic production of their
20 footwear. It is for that reason that they are anxious
21 to see no delusion in their tariff structure so they
22 continue to be producers in this country which is the
23 country of choice for them.

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1 We are deeply concerned that an agreement
2 with Central America will become a precedent for still
3 more bilateral Free Trade Agreements. What happened
4 in the Caribbean justifies this concern.

5 Duty-free treatment in the CBI where there
6 had previously been no significant rubber footwear
7 production resulted in less than seven years and an
8 increase in annual shipments from that area from
9 200,000 pairs to in excess of 5 million pairs. Let me
10 put myself in parenthesis long enough to note that
11 this increase in rubber footwear shipments from the
12 Caribbean was principally from the Dominican Republic.

13 It also occurred during that period when
14 there was a requirement that all components of this
15 footwear had to be produced in this country so that
16 the blow that rubber footwear has already suffered
17 from that part of the world gives them even greater
18 pause when they think about the potential for all of
19 Central America.

20 Finally, any additional bilateral Free Trade
21 Agreement negotiated in the course of the DOHA round
22 discussions is bound to erode our government's ability
23 to satisfy this industry's legitimate needs in that

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1 multi-lateral negotiation.

2 The precedent set by any of these bilateral
3 agreements is bound to have some influence on the
4 outcome of the DOHA round and that is, of course, the
5 big concern of this industry whose duties,
6 incidentally, remained intact because of the wisdom of
7 the United States Government throughout the Kennedy
8 round, the Tokyo round, and the Uruguay round.

9 I do want to say one or two additional words
10 if I may. Since I last appeared before this body, the
11 president has issued his statement on the
12 implementation of the Indian Trade Preference Act and
13 in his wisdom presumably guided by the special trade
14 representative, the President accepted from duty-free
15 treatment for the four Andean countries on grounds of
16 serious important penetration probability.

17 All of the 17 rubber footwear categories
18 which concern us in the possible negotiation of an
19 agreement with Central America, those categories are
20 listed in the attachment to my testimony. They are
21 the remaining categories of rubber footwear
22 manufactured in this country.

23 They are the only items to the best of my

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1 knowledge which the President said are so import
2 sensitive that they should not receive duty-free
3 treatment in the ATPA. If that's valid for the ATPA,
4 I ask you to exercise your wisdom and your restraint
5 and your judgment in coming to a similar conclusion
6 with respect to Central America.

7 One final point. I regret to tell the
8 committee that because of rather significant conflict
9 I will not be appearing before the committee to
10 testify about Morocco the day after tomorrow. For
11 whatever comfort it may give you, my testimony would
12 be identical to what it is today. If you want to ask
13 any questions about Morocco today, I will be happy to
14 answer them. Thank you.

15 CHAIRPERSON SURO-BREDIE: Thank you, Mr.
16 Cooper. The first question will be asked by the
17 Department of Commerce.

18 MS. HEINZEN: Meanwhile, we'll all be
19 thinking about questions on Morocco. In your
20 testimony you emphasized the increase of shipments
21 from 200,000 pairs to more than 5 million pairs. I
22 think you indicated that was specifically from the
23 Dominican Republic. Can you give us any more -- can

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1 you elaborate further on the reduction of
2 manufacturing jobs in this industry and if any such
3 job loss can be attributed to imports from CAFTA?

4 MR. COOPER: I can to back to the early
5 1970s, although I have been representing this industry
6 for a considerably longer period than that. In the
7 early 1970s there were approximately 26,000 employees
8 manufacturing rubber footwear in this country. They
9 were being manufactured by companies like U.S. Rubber,
10 Goodrich, Converse, none of whom is today on the
11 American production scene.

12 In 2001 there was something less than 3,000
13 employees in this industry. That is about where we
14 are today. In the association that I represent, which
15 really accounts for the vast majority of production in
16 this country, there are five producers, four producers
17 of waterproof footwear and one of fabric-upper rubber-
18 soled footwear, namely New Balance.

19 In addition to that, there are 12 or 13
20 suppliers to the industry who are in large part
21 dependent on the continued existence of domestic
22 production for them to have the ability to sell to the
23 industry. That's where we are today and that's where

1 we have been in the past.

2 All of this is attributable to the ease of
3 imports to penetrate this market in spite of the fact
4 that this industry has been and remains, thanks to the
5 restraint shown by our government, one of the highest
6 duty industries in the country.

7 The reason for all of this, of course, is
8 that this is a highly labor intensive industry, labor
9 constituting roughly 40 percent of total product.
10 It's products are not so sophisticated to manufacture
11 that they can't be done anywhere.

12 As a result of this, what's happened is that
13 imports have shifted from Japan where they were at the
14 beginning of the Kennedy round. Most imports came
15 from Japan. Some from Hong Kong. They shifted from
16 Japan to Taiwan to South Korea to Malaysia to
17 Indonesia to the People's Republic of China and now to
18 Vietnam, to some extent, and also to Mexico with NAFTA
19 and Central America.

20 What's left of the industry is concerned
21 that a further shift would result with any reduction
22 in duties. It's the duty which has -- you should
23 excuse my coining the phrase -- created something of

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1 a level playing field for those companies which
2 remain.

3 MS. HEINZEN: You've already given us an
4 indication of the state of the U.S. rubber footwear
5 industry. Could you give us what you consider would
6 be the reduction -- what the effect of the reduction
7 or the elimination of tariffs under a CAFTA would
8 have? The impact it would have on this industry?

9 MR. COOPER: Well, again I have to point to
10 what happened in the Dominican Republic when duties --
11 when it wasn't a question of elimination of duties.
12 It was a question of elimination of duties with the
13 caveat that they continue to use domestic components.
14 That creates the treat fear of what can happen in
15 Central America.

16 The companion fear is that if you start the
17 engine running in the direction of elimination of
18 duties, as happened already in NAFTA, which set the
19 precedent for CBI, which seems to have set the
20 precedent for Central America, this creates the
21 concern what kind of a precedent will you be setting
22 here. Every one of these agreements is used as an
23 excuse for a successor agreement.

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1 I would tell you, if I may just say this,
2 that when the Free Trade Agreement with Canada was
3 negotiated, my clients did not take a position. I
4 think in part because I thought there was a lot of
5 slush in Canada and it would open a market for
6 American Protective Footwear.

7 Wage rates were comparable so that wasn't a
8 matter of grave concern. What did concern them was
9 what is this going to mean for future agreements.
10 Sure enough along came Mexico. It became very
11 important if we had Canada and the United States to
12 complete this hemisphere.

13 That led to NAFTA. And then the Caribbean
14 countries said, "You're hurting us by letting items go
15 duty free from Mexico. You've got to do it for us."
16 We did do it for the CBI. This is the road that we
17 seem to be on.

18 I'm not saying that in the interest of
19 national policy we shouldn't have Free Trade
20 Agreements. I am saying that in the interest of
21 national policy it's important to retain smoke stack
22 industries, however small, but particularly when there
23 is an opportunity for growth, and there is in the

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1 rubber footwear industry if you would let them grow
2 that you've got to permit exceptions in severe cases
3 where death is threatened.

4 CHAIRPERSON SURO-BREDIE: Questions?

5 MS. SAUCEDA: Let me follow up with a couple
6 of questions, please, Mr. Cooper.

7 MR. COOPER: Sure.

8 MS. SAUCEDA: These 3,000 employees that are
9 left producing rubber footwear in the United States,
10 about how many pairs of shoes do they produce in the
11 U.S.?

12 MR. COOPER: I'm sorry. I should have
13 brought those figures with me. I would rather not
14 hazard a guess at the moment. They are divided
15 certainly between fabric upper and waterproof. The
16 only fabric-upper producer -- we are confining this
17 now to 17 categories.

18 You have to realize we're giving away
19 because we don't produce them anymore in this country,
20 not through any great sense of generosity. Vast
21 volumes of rubber footwear are no longer produced in
22 this country so we have confined it to what is
23 actually being produced.

1 The only real fabric-upper producer we're
2 talking about is New Balance. I can tell you that New
3 Balance has close to 1,500 of the employees that we're
4 talking about when we say 3,000. They have five
5 plants in Maine and Massachusetts and a plant in
6 California that manufacturers exclusively for them,
7 although not owned by them.

8 Then there are the waterproof companies in
9 Rock Island, Illinois, and New Jersey and Littleton,
10 New Hampshire, and Belcamp, Maryland. None of them
11 would have as many as 1,000 employees but they are all
12 here to stay. I should point out that Tingley Rubber,
13 which is one of these companies, has just recently
14 shifted its civilian production to Mexico because
15 although in NAFTA we've got a 15-year phaseout.

16 Very few industries you get a 15-year
17 phaseout but that's reached the point where the
18 balance has now tipped and it's with importing from
19 Mexico. So Tingley does military production in this
20 country and civilian production now in Mexico.

21 MS. SAUCEDA: All right. If you can find
22 the information on the pairs of shoes and send it to
23 me, really that would be helpful.

1 MR. COOPER: I'll send a copy to Gloria.

2 MS. SAUCEDA: All right. You mentioned that
3 these companies that remain in the United States,
4 these rubber footwear companies, both are importers
5 and exporters.

6 MR. COOPER: Not exporters. I didn't say
7 exporters.

8 MS. SAUCEDA: Excuse me. Importers. Do
9 they import component materials, just a borage of
10 different items, or do they have like a main type of
11 thing they do import?

12 MR. COOPER: Well, they do everything. I
13 mean, they do have to import components. In some
14 cases they have no choice but to import components
15 because the industry has shrunk to the point where you
16 can't get components in this country but they import
17 the finished products, too, to fill out their product
18 line and that becomes absolutely essential if their
19 product line is going to be complete.

20 MS. SAUCEDA: And the countries from which
21 they import goods, are there any principal countries
22 that are used?

23 MR. COOPER: Yes, largely from the Far East.

1 Largely China.

2 MS. SAUCEDA: Okay. Shifting to Central
3 America for a moment, does Central American have as a
4 national resource rubber? Is there a lot of rubber
5 manufacturing in Central America currently? Do you
6 know that?

7 MR. COOPER: I can't tell you. I don't know
8 that answer to that question. I don't know that the
9 Dominican Republic had any of these natural resources
10 either. Maybe they do. I'm sorry. I just don't know
11 the answer to that.

12 MS. SAUCEDA: Okay. All right. Thank you
13 very much.

14 CHAIRPERSON SURO-BREDIE: I have a question,
15 Mr. Cooper. For military use are shoes required to be
16 produced in the United States?

17 MR. COOPER: Are shoes what?

18 CHAIRPERSON SURO-BREDIE: Shoes for military
19 use required to be produced in the United states?

20 MR. COOPER: I'm sorry?

21 CHAIRPERSON SURO-BREDIE: For military.

22 MR. COOPER: I know. For military use, yes.
23 Sure. There are military contracts particularly for

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1 things like cold weather boots. In one case chemical
2 protection boots. There is a significant amount, I
3 should say, of production being done for the military
4 by the waterproof producers.

5 CHAIRPERSON SURO-BREDIE: Are there any
6 other questions?

7 We have an additional question from the
8 Department of Treasury.

9 MR. COOPER: Sure.

10 MS. SANMIGUEL: I was just curious what the
11 current level of imports from Central America are.

12 MR. COOPER: From Central America thus far
13 virtually none. I would have said the same thing
14 before CBI-2 about the Caribbean, about the Dominican
15 Republic.

16 MS. SANMIGUEL: Thank you.

17 CHAIRPERSON SURO-BREDIE: One more question.
18 Can you explain why the Dominican Republic became the
19 center of all shoe production?

20 MR. COOPER: Compared to other countries it
21 had a large labor force. There was one company down
22 there which was in the business. It had plants in the
23 United States. This was Carter Footwear which no

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1 longer exist for other reasons. It had plants in the
2 United States and in the Dominican Republic.

3 When duties were eliminated, it was very
4 easy for Carter to expand its production in the
5 Dominican Republic. The labor force was there and the
6 labor force expanded and it's a relatively easy
7 product, as I say, to manufacture so other companies
8 began to manufacture there. There is also some
9 production in Honduras but nothing compared to what
10 was happening -- what has happened in the Dominican
11 Republic.

12 CHAIRPERSON SURO-BREDIE: Thank you. There
13 are no further questions. Thank you very much.

14 MR. COOPER: Thank you.

15 CHAIRPERSON SURO-BREDIE: Our next witness
16 is Lauren Perez for the American Free Trade
17 Association. Thank you very much.

18 MS. PEREZ: On behalf of the American Free
19 Trade Association, AFTA, I am pleased to present this
20 testimony to the Office of the United States Trade
21 Representative on the proposed Central America Free
22 Trade Agreement (CAFTA).

23 AFTA is an incorporated, not-for-profit

1 trade association representing the legitimate needs
2 and interests of the domestic parallel market
3 industry. Supported by U.S. laws the parallel market
4 supplies U.S. consumers with genuine products that may
5 not other be available and forces U.S. manufacturers
6 to offer price incentives t potential purchasers
7 resulting in competitive pricing throughout the globe.

8 The Central America FTA presents the USTR
9 with the enormous task of providing our lesser-
10 developed neighbors with the investment and leadership
11 uniquely available through an association with the
12 United States of America. There is no better method
13 of accomplishing such a Herculean task than by relying
14 upon the freedoms available under U.S. law as the
15 model to promote competition and free trade throughout
16 the hemisphere.

17 Importantly, U.S. laws police but do not
18 prohibit the activities conducted by AFTA's members.
19 AFTA urges that the Central America FTA not
20 intentionally restrict or eliminate this legitimate
21 parallel market industry. Parallel market trade is
22 supported by existing U.S. law, benefits consumers of
23 all potential trading partners, and facilitates a

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1 freely competitive hemispheric marketplace.

2 The fact is that U.S. law protects
3 intellectual property owners, their authorized
4 distributors and legitimate unauthorized product
5 distributors that do not infringe upon those
6 proprietary rights.

7 To negotiate provisions in any FTA that do
8 not reflect the rights, limitations and freedoms
9 currently affirmed by judicial interpretation of U.S.
10 intellectual property law would disrupt the
11 existing marketplace to the detriment of the
12 legitimate interests of consumers, retailers and
13 distributors in both the United States and our Central
14 American trading partners.

15 Our members are concerned that the Jordan
16 FTA will serve as a model to change United States law,
17 and that of our trading partners, so that negotiated
18 FTA's, such as the proposed Central American
19 agreement, will eliminate trade which today is lawful.

20 The Jordan FTA, negotiated under a former
21 Administration, contains a provision that, without a
22 doubt and with no possibility of misinterpretation,
23 overturns a holding of the U.S. Supreme Court.

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1 In 1998, the U.S. Supreme Court, in *Quality*
2 *King v. L 'Anza Research* held that U.S. copyright law
3 could not be relied upon to bar importation of genuine
4 copies, even if the U.S. copyright owner did not
5 authorize their importation into the United States.

6 While the Supreme Court expressly declined
7 to make a ruling binding upon foreign-made genuine
8 articles since that was not the case before it, the
9 Court did expressly opine on two very important
10 issues.

11 The first was that its ruling was as binding
12 upon books and sound recordings as it was upon shampoo
13 labels and, second, that U.S. law did not support the
14 import prohibitions on copyrighted products contained
15 within several FTAs entered into by the Administration
16 before the date of the opinion.

17 How is it, then, that the Jordan FTA,
18 negotiated after that ruling, expressly prohibits
19 unauthorized importation of copyrighted books and
20 sound recordings, among other goods? And how is it,
21 then, that this Administration can turn to this
22 existing Jordan FTA as the starting point for others
23 -fully committed to its belief that the Jordan FTA

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1 only reflects U.S. law and does not contradict it, or
2 even reinterpret it?

3 One case which may be easily reinterpreted
4 to support a theory of import prohibitions on
5 copyrighted products is the 1983 Givenchy case. In
6 1983, the Ninth Circuit held that Givenchy had the
7 right to bar importation of foreign-manufactured
8 perfumes (Givenchy v. Drug Emporium).

9 Importantly, however, the Court opinion very
10 clearly indicates that nothing in U.S. statutory
11 history supports a finding that the place of
12 manufacture of an article is relevant to whether or
13 not domestic copyrights are exhausted. Rather, the
14 measure of exhaustion rests on whether or not the U.S.
15 copyright owner has received a "just reward" for his
16 creation. In the case before it, Givenchy had not.

17 It is inappropriate for the Administration
18 or anyone else to rely upon the Givenchy case to
19 support a policy barring importation of foreign-made
20 copyrighted products. To do so, would be to
21 intentionally ignore the contents of the opinion in
22 favor of the last sentence only. And were that the
23 sole purpose of judicial proceedings, then there would

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1 be no need for published opinions at all.

2 These examples of negotiated FTAs and
3 bilateral trade agreements which are inconsistent with
4 existing U.S. IP law is very important in light of the
5 fact that there is a growing concern that the U.S.
6 will propose language in future FTAs which would not
7 only prohibit unauthorized importation of copyrighted
8 products, but also of patented products, under the
9 mistaken assumption that these restraints reflect
10 existing U.S. law.

11 In fact, U.S. patent law does not include a
12 provision expressly prohibiting parallel imports of
13 patented goods. U.S. law allows U.S. patent owners to
14 take certain steps to control disposition of their
15 patented articles during the limited term of
16 permissible monopoly.

17 Through express notice to purchasers or
18 licensees, U.S. patent owners can undertake measures
19 to ensure that the patented items are only sold in
20 certain territories, to certain parties or upon
21 certain terms. Without such express notice the U.S.
22 Supreme Court has long and consistently held that no
23 such right to restrain subsequent alienation is

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1 permitted under U.S. patent law.

2 To implement FTAs negating the need for U.S.
3 patent owners to take any such express actions
4 indicating their intention to limit subsequent
5 disposition of their patented articles is to assume
6 that patent ownership is a right that must be enforced
7 by the government instead of a privilege that is of
8 particular value only to its owner.

9 We are aware of two Supreme Court cases that
10 might be relied upon to support an alterative
11 interpretation of U.S. patent law. But, in fact, both
12 of these cases support AFTA's position that U.S.
13 patent law clearly holds that any product sold,
14 without restriction, by the U.S. patent owner or under
15 his authority, regardless of place of such sale,
16 exhausts the monopoly rights of that U.S. patent owner
17 as guaranteed under U.S. patent law.

18 First, in Doesch v. Gruff 133 U.S. 697
19 (1890), the U.S. Supreme Court held that a product
20 sold outside of the United States by the owner of the
21 German patent rights could not be imported into the
22 United States without authorization of the unrelated
23 U.S. patent owner. The Court did not address the

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1 question of importation of a product sold abroad under
2 authority of the U.S. patent owner.

3 Accordingly, the Court's holding that
4 license by the U.S. patent owner was required in order
5 to import the products sold abroad by the unrelated
6 German patent owner is not dispositive of the issue at
7 hand nor is it a reflection that U.S. patent law
8 prohibits parallel imports of products sold abroad
9 with the blessing of the U.S. patent owner.

10 Second in Jazz Photo v. Fuji Film (2001) the
11 U.S. Supreme Court refused to grant certiorari in a
12 case in which the Court of Appeals for the Federal
13 Circuit held only that products first sold in the
14 United States exhausted the domestic patent rights.

15 However, this decision was driven by a lack
16 of evidence that the U.S. patent owner had realized
17 any benefit from the first sale of the products
18 outside of the United States; the CAFC had no
19 information before it to indicate that the sales
20 abroad had, in fact, been authorized by the U.S.
21 patent owner. The Department of Justice, in fact,
22 conceded to the Supreme Court that the lower Court had
23 no testimony, brief or data to support its unexpected

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1 ruling on this issue.

2 Accordingly, neither of these cases can be
3 held as precedent to permit an outright prohibition on
4 the importation of unauthorized patented goods and
5 both should only be relied upon to confirm existing
6 U.S. law that prohibits imports of patented goods sold
7 overseas without authorization or license from the
8 U.S. patent owner.

9 There is an equally compelling practical
10 reason to avoid barring all unauthorized imports of
11 patented goods. This would require all importers,
12 distributors and retailers to ascertain whether each,
13 and every, patented component of a finished product is
14 authorized by the domestic patent rights holder prior
15 to import or sale.

16 For example, an engine manufactured in
17 Britain. Patented Part A comes from Mexico, Patented
18 Part B comes from India and yet still another Patented
19 Part is sourced from Japan. Back in England all these
20 Patented Parts A, B and C are put together into an
21 engine for export to the United States.

22 But what if the U.S. patent owner of
23 Patented Part A doesn't want its part sold in the

1 U.S.? May it granted U.S. rights to its Patented Part
2 A to a different manufacturing entity? Does he then
3 have the right to sue the U.S. importer or ultimate
4 retailer of the finished engine for patent
5 infringement even if there is no conceivable method
6 for the U.S. importer or retailer to have known that
7 Patented Part A was even a component of the finished
8 engine product?

9 Or what if the British manufacturer was told
10 of no restriction as to use of Patented Part A and so
11 felt free to incorporate it into an engine for sale to
12 the United States? What if a fragrance product is
13 manufactured in France and put into a pump spray type
14 of bottle subject to a U.S. design patent?

15 Will the owner of that design patent have
16 the right to prohibit domestic importation of the
17 perfume even if it consented to the filling of the
18 bottle in France with that particular perfume and
19 placed no restriction on its importation?

20 CHAIRPERSON SURO-BREDIE: Ms. Perez, please
21 summarize.

22 MS. PEREZ: Okay. The fact is that the
23 global economy, supports and needs a competition

1 provided by the parallel marketplace. The parallel
2 market provides consumers with equal access to branded
3 goods and guarantees incentives for manufacturers to
4 engage in competitive pricing practices.

5 The complex balance in today's U.S. law
6 between the rights of IP owners and of importers,
7 distributors and consumers should not be altered in a
8 regional FTA to the detriment of the trade governed by
9 that agreement.

10 We sincerely appreciates the opportunity to
11 present its views before the USTR today. Open to
12 questions.

13 CHAIRPERSON SURO-BREDIE: Thank you. I'll
14 ask the first question. Could you tell us a little
15 bit about the members of the American Free Trade
16 Association?

17 MS. PEREZ: The written testimony goes into
18 a little more detail than I gave. The American Free
19 Trade Association has been around for about 20 years.
20 Its members include retailers, importers,
21 distributors, and wholesalers involved in the
22 legitimate activities of the domestic parallel
23 marketplace.

1 The particular members of AFTA actually
2 joined the association almost for the express purpose
3 of having a central resource to keep up and monitor
4 the state of the lawful activity in this country to
5 make sure that its activities remain within the
6 regulations permitted under U.S. law. And to also
7 keep abreast of what's going on internationally. For
8 that reason some of you here may have noticed that
9 AFTA has become very vocal and visible in the FTA
10 hearings.

11 CHAIRPERSON SURO-BREDIE: Thank you. I have
12 an additional question. Did I hear correctly that you
13 said a patent is not a right?

14 MS. PEREZ: A patent is a privilege. It's
15 a limited monopoly that we believe is a privilege and
16 not a right. The distinction that we draw is that a
17 right is you have a right to free speech and the
18 government enforces that right. A privilege is
19 something that is of particular value to its owner.

20 U.S. law says that owners of the monopoly
21 provided by U.S. patent rights have the ability to
22 expressly say how they want their products
23 distributed. If they don't exercise that privilege,

1 then it's not up to the government to do it for them.

2 CHAIRPERSON SURO-BREDIE: Don't you agree
3 that the government enforces the right of patients in
4 the United States?

5 MS. PEREZ: The Government enforces the
6 rights of patent law but one of the rights under U.S.
7 law is the right of the patent owner to expressly
8 advise if it wishes restrictions on the subsequent
9 distribution of their goods. If they don't avail
10 themselves of the opportunity to make that kind of
11 express notice, then they is nothing under U.S. patent
12 law that gives them the right to do it later.

13 CHAIRPERSON SURO-BREDIE: Thank you. Does
14 anyone else have any questions? Thank you.

15 Our next witness is Maureen Smith, Vice
16 President, International American Forest and Paper
17 Association.

18 MS. SMITH: Thank you very much. I am very
19 pleased to provide views today on the negotiation of
20 the U.S. Central America Integrated System Free Trade
21 Agreement, particularly with regard to forest and
22 paper products, but also to refer to the interest of
23 the Zero Tariff Coalition in these negotiations.

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1 The American Forest and Paper Association is
2 the National Trade Association of the forest, pulp,
3 paper, and paperboard and wood products industry. The
4 vital national industry that I represent accounts for
5 six percent of total U.S. manufacturing shipments. We
6 employ approximately 1.5 million people with an annual
7 estimated payroll of \$50 billion and sales in excess
8 of \$250 billion.

9 Export sales are an important source of
10 income and growth for our companies. But our ability
11 to export is hampered by tariffs and nontariff
12 measures in many world regions including Central
13 America. With a growing and increasingly urbanized
14 population in close proximity to the U.S. production
15 base the CIS countries should grow as a market for
16 U.S. wood and paper products.

17 However, in the face of increasing numbers
18 of trade agreements between CIS countries and our
19 major competitors, particularly Canada, and with high
20 tariffs and nontariff measures, the region's market
21 potential is greatly diminished.

22 Early elimination of tariffs and nontariff
23 measures by CIS countries is essential if the U.S.

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1 forest products industry is to compete on an equal
2 footing in the region.

3 An FTA agreement that allows for partial
4 reductions, long phase-out periods for tariffs, or
5 that doesn't eliminate all nontariff measures will
6 only provide partial economic and trade benefits to
7 the U.S. forest products industry and, most
8 importantly, leave us at a competitive disadvantage
9 vis-a-vis other regional suppliers.

10 Most U.S. paper and wood tariffs are free
11 with the remainder being under 1.5 percent for paper
12 and under 8 percent for high value-added wood
13 products. However, all paper and wood products from
14 CIS countries enter the U.S. duty free under GSP.

15 In contrast, CIS countries main tariffs
16 ranging up to 15 percent on forest products. This is
17 before the import tax and required IVA or sales tax
18 which usually hovers between 15 and 13 percent.
19 Furthermore, CIS countries -- this is one of the
20 themes that I'm going to be repeating in my statement
21 -- CIS countries do not impose tariffs on product
22 entering from neighboring Central American countries
23 giving our rising competitors such as Honduras,

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1 particularly in the wood products area, an advantage
2 in the market place.

3 It is difficult for U.S. paper and wood
4 products to be competitive unless our trading partners
5 eliminate their tariffs as soon as possible. We would
6 argue that early elimination of CIS tariffs is needed
7 to put U.S. forest product suppliers on a more equal
8 footing with competitors from countries with whom the
9 CIS has, or anticipates, having preferential trade
10 arrangements.

11 AF&PA, therefore, urges complete elimination
12 of tariffs on wood and paper products in any
13 negotiations with CIS. A practical way for this
14 negotiation to proceed is to achieve immediate tariff
15 elimination on a package of sectors immediately on
16 implementation of force of the FTA. AF&PA urges the
17 inclusion of wood and paper products in this immediate
18 tariff eliminating basket.

19 The base rate from which tariffs would be
20 phased out should be the current applied rate rather
21 than the TWO boundary. Specifically the base tariff
22 should be either the MFN rate or the applied rate of
23 other preferential agreements. For example, the

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1 Canada/Costa Rica FTA, whichever is lower.

2 The main point that I want to make
3 conceptually about this agreement is for U.S. based
4 forest products industry the strategic imperative in
5 CIS negotiations and, indeed, looking beyond that to
6 the FTAA, is that we cannot be placed at a
7 disadvantage vis-a-vis our Canadian competitors in
8 this hemisphere.

9 This is an industry. Forest products is an
10 industry where the U.S. competes head to head with
11 suppliers from Canada and as Canada has gained a lead
12 on us in the negotiation of FTAA which places us today
13 at a competitive disadvantage, the main objective for
14 our industry has to be to bridge that gap so that we
15 are not at a perpetual disadvantage as these FTAs are
16 implemented.

17 Just to take a case in point, the
18 Canada/Chile FTAA essentially gave Canada immediate
19 zero tariff on wood and paper products while at that
20 point when it entered into force, the U.S. continued
21 to pay the 8 percent across the board Chilean tariff.

22 Immediately on entering into force, the U.S.
23 share of Chile's paper imports dropped from 30 percent

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1 in '97 to 11 percent in 2001. U.S. exports of wood
2 products fell to 25 percent. The bottom line is that
3 within two years of the implement coming into force of
4 that agreement, our industry lost \$100 million a year
5 in sales.

6 Again, to kind of draw the circle, our
7 objective in these negotiations is that we've got to
8 catch up with the Canadians because this is an
9 industry where we just compete head to head. If there
10 is a remaining differential between the tariff that
11 the Canadian product has to pay and the U.S. product
12 has to pay, there is absolutely no question of who is
13 going to get that business.

14 In addition to its FTA with Costa Rica,
15 Canada is negotiating an FTA with the other four CIS
16 countries. Negotiations on the Canada/Central America
17 four FTA could be completed as early as the end of
18 this year.

19 In addition to the Central American FTAs,
20 other FTAs that further undermine U.S. wood and paper
21 industry competitiveness in this area are: I've
22 already mentioned the Canada/Chile FTA, the
23 Chile/Costa Rica FTA, the Chile/El Salvador FTA, and

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1 then the CACM which includes all the CIS countries.

2 I would like to, if I could, also refer to
3 the Zero Tariff Coalition. The American Forest and
4 Paper Association has been a vigorous participant in
5 the Zero Tariff Coalition of the National Association
6 of Manufacturers.

7 This coalition now represents more than 24
8 sectors accounting for more than \$300 billion in U.S.
9 exports. The coalition believes that CIS negotiations
10 and the FTAA negotiations can complement market access
11 negotiations in the WTO and, to the extent they can
12 demonstrate the benefits of a sectorial approach to
13 early tariff liberalization, they can actually serve
14 as an impetus to achieving an ambitious result in the
15 WTO, let sort of competitive liberalization dynamic.

16 Given that the objective in both the CIS and
17 the FTA us the complete elimination of tariffs between
18 the parties, we believe these negotiations offer an
19 ideal opportunity to pursue sectorial tariff
20 liberalization approaches based on the U.S. sectors
21 which have indicated a willingness to go to zero
22 immediately, as well as sectors which might be
23 nominated by our trading partners.

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1 Again, I appreciate this opportunity very
2 much and I would be pleased to answer any questions
3 you may have. Thank you.

4 CHAIRPERSON SURO-BREDIE: Thank you very
5 much.

6 The first question will be asked by the
7 Commerce Department, please.

8 MS. HEINZEN: You've spoken at length about
9 the tariff barriers and mentioned nontariff barriers.
10 Can you elaborate on what type of nontariff barriers
11 there are?

12 MS. SMITH: The nontariff barriers are most
13 prevalent and sort of easiest to point to on wood
14 products as opposed to paper products. In the wood
15 products area, they are standards which are
16 discriminatory standards, construction codes. Also we
17 have concerns with the implementation of some of the
18 specific SPS requirements. I can provide the
19 committee with additional details on those. Some of
20 them are pretty specific.

21 MS. HEINZEN: That would be great.

22 MS. SMITH: I can do that.

23 MS. HEINZEN: Thank you.

1 CHAIRPERSON SURO-BREDIE: The next question
2 by USTR.

3 MR. FANTOZZI: Right. Two-part question.
4 One is is your main competitor. That is, is the main
5 competitor of the American industry in the Central
6 American countries Canada or is it domestic production
7 or some other country? That's one question.

8 The other is do you have an estimate of
9 either in terms of market share or in dollar terms how
10 much the U.S. industry stands to lose if Canada, or
11 when Canada goes to zero tariffs with the Central
12 American countries?

13 MS. SMITH: The main competitor is Canada.
14 I mean, Canada is a huge forest products industry. As
15 I said, many of the characteristics of our products
16 are very similar since they come from basically the
17 same forest area. The quality is definitely
18 comparable. We have a lot of cross-border ownership.

19 If you are, for example, looking at a
20 product from Weyerhaeuser, if the Canadian product
21 enters at zero tariff and the U.S. product enters at
22 an 8 percent tariff, again referring to Chile, there
23 is absolutely no question of where you are going to

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1 source your product.

2 It would be different if we had a competitor
3 in the area that had some either quality problems or
4 delivery problems or different characteristics to the
5 product based on the fiber source but that doesn't
6 exist with Canada. Canada is our number one
7 competitor. That is why we have not put numbers on
8 what our loss would be.

9 It is easy to see that it's going to be
10 substantial assuming people respond to economic
11 motivation. Again, we just use the Chile example as
12 an indicator that change in our share of the market
13 was absolutely coincident with the entry into force of
14 the FTA.

15 MS. BOWIE-WHITMAN: Do you think that is
16 lost market share forever or that once an agreement
17 might come into force between the United States and
18 Chile it could be reversed?

19 MS. SMITH: It's difficult to recoop a
20 market. Once you've lost it you enter into long-term
21 contracts. There is a spot or component to our trade
22 so --

23 CHAIRPERSON SURO-BREDIE: But presumably for

1 those companies that are jointly held, they could
2 shift manufacture back to the United States once the
3 tariffs were equal.

4 MS. SMITH: Certainly. I didn't mean to
5 hold up the paradigm of Weyerhaeuser as an example. My
6 point was that in terms of the U.S. manufacturing base
7 in this particular industry, our competition is coming
8 from Canada and that is why we've got to catch up with
9 the Canadians and that has to be our objective.

10 CHAIRPERSON SURO-BREDIE: Excuse my
11 ignorance. Have the Canadians begun negotiations with
12 Central America?

13 MS. SMITH: Well, my understanding is that
14 they have begun those negotiations. The prediction is
15 that it could be completed as nearly as the -- as
16 early as the end of this year.

17 MS. BOWIE-WHITMAN: 2002?

18 MS. SMITH: That's -- I mean, you guys
19 certainly know that better than do we, but that's our
20 understanding. We are in touch with our counterparts
21 in Canada and they don't find that to be an
22 unreasonable estimate.

23 CHAIRPERSON SURO-BREDIE: Commerce

1 Department.

2 MS. HEINZEN: I just may have missed this.
3 You've emphasized that Canada is a competitor. Is
4 there a forest industry or paper industry at all in
5 Central America?

6 MS. SMITH: For example, Honduras is a good
7 competitor and growing competitor in the wood side.
8 I refer to the Chile/Costa Rica FTA and the Chile/El
9 Salvador FTAs because, again, Chile is an important
10 forest products producing country and, again,
11 particularly export oriented in the wood products area
12 and very aggressively being export oriented in the
13 wood products area.

14 CHAIRPERSON SURO-BREDIE: Thank you very
15 much.

16 MS. SMITH: Thank you.

17 CHAIRPERSON SURO-BREDIE: Our next witness
18 is Mr. Francis Urbany, Vice President, International
19 Bell South.

20 Welcome.

21 MR. URBANY: Good morning. It's still
22 morning for a few minutes.

23 Well, thank you very much for the

1 opportunity to meet with you today and present
2 testimony on behalf of Bell South Corporation. My
3 name is Frank Urbany. I'm Vice President for
4 International Affairs. Bell South is an Atlanta based
5 corporation and employs over 80,000 people in the
6 United States.

7 We operate in nine southeastern states in
8 the United States. We also operate in 11 countries in
9 Latin America. In fact, we are the largest U.S.
10 telecommunications operator in Latin America and one
11 of the largest U.S. direct foreign investors in the
12 region.

13 We have been committed to Latin America
14 since the 1989 opening in Argentina, Argentina's
15 telecommunications market. We own and operate
16 wireless properties throughout the region. Even with
17 the recent economic downturn and the perception of a
18 turn towards populous governments, we continue to see
19 significant opportunities for shareholders over the
20 medium to long term.

21 We remain strong supporters of U.S. policies
22 designed to support democracy, open markets, and
23 achieve long-term partnership in the region including

1 the idea of a trade agreement with Central America.

2 In the five nations under consideration, we
3 maintain wireless properties in both Nicaragua and
4 Guatemala with a total investment approaching \$150
5 million. We also own and operate a wireless property
6 in Panama and would support an excision clause in the
7 CAFTA to the final agreement if that proved to be a
8 prudent course of action.

9 Our written filings detail the
10 telecommunication services and investment provisions
11 we would like to see incorporated into a final
12 agreement including privatization of remaining
13 government-owned telecom properties, for example, in
14 Costa Rica. I stress fully independent national
15 regulatory structures.

16 At bottom, we would be fully supportive of
17 provisions that are consistent with the basic WTO
18 agreement on telecommunications and its reference
19 paper with respect to telecommunications. Indeed, we
20 would call for each party that has not already done so
21 to agree to abide by the WTO provisions already in
22 force before the new CAFTA agreement is implemented.

23 Even so, we are dismayed that at least two

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1 of the countries set to participate in negotiations
2 with the United States, Nicaragua and Guatemala, have
3 proven themselves unable or unwilling to meet their
4 obligations to U.S. direct foreign investors including
5 Bell South.

6 Nicaragua in particular has taken anti-
7 competitive and nontransparent actions in direct
8 contravention of the letter and spirit of the
9 agreement governing Bell South's investments. Despite
10 intense efforts by the company including exhaustion of
11 local remedies, we have been unable to have these
12 matters resolved. Indeed, we have requested
13 international arbitration but efforts to realize this
14 course of action have been unproductive to date.

15 As a result, we are compelled to request
16 that the benefits under a Free Trade Agreement with
17 Central America be denied to Nicaragua until the
18 government of Nicaragua takes concrete steps to
19 improve the investment climate by resolving our
20 dispute which could include referral of the dispute to
21 international arbitration. For this to occur we would
22 then be supportive of a Free Trade Agreement that
23 includes Nicaragua.

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1 Similarly, in Guatemala the government has
2 not met its commitments to current investors. In our
3 case the incumbent telecommunications provider is
4 engaging in anti-competitive practices including
5 cross-subsidization and is applying discriminatory
6 rates and conditions for access to its interconnection
7 facilities. This matter also needs to be cleared up
8 prior to the provision of additional trade benefits
9 for Guatemala.

10 Now, in conclusion let me reiterate that our
11 company strongly supports the idea of trade expansion
12 with Central America. Expanded trade with the United
13 States supports commercial activities and improves
14 national well being. It is also reward for Central
15 American nations and should not be granted absent the
16 protection of the rights of current U.S. investors
17 including Bell South.

18 Thank you for the opportunity to testify
19 here this morning and present these observations. I
20 would be happy to take any questions that you may
21 have.

22 CHAIRPERSON SURO-BREDIE: Thank you, Mr.
23 Urbany. The first question will be by USTR.

1 MR. FANTOZZI: Thank you. I wondered if you
2 had any comment about the monopoly situation in Costa
3 Rica?

4 MR. URBANY: Well, yes. We would like to
5 see the monopoly be converted into a privatized
6 corporation in an environment that promotes
7 competition. We would want to move beyond
8 substituting a government monopoly with the private
9 monopoly. We would like to see an environment that
10 creates competition.

11 MR. FANTOZZI: Also you had mentioned that
12 there was problems with national regulatory structures
13 in Central America. You have referred to some
14 problems with contracts. Are there other issues?

15 MR. URBANY: Well, there's a general issue
16 with regulatory structures of having transparency in
17 the process. There are often times two arbitrary
18 interpretations and lack of respect for the law of
19 contract under the guise of regulatory decisions. We
20 would like to see the regulatory agencies promote an
21 environment conducive to competition.

22 I must say that too often in dealing
23 overseas we find that rhetoric deeds don't match the

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1 rhetoric. The reference paper from the WTO
2 negotiations provides, we believe, a very good
3 framework because, among other things, it emphasizes
4 the need for an independent regulator.

5 MR. FANTOZZI: Thank you.

6 MS. BOWIE-WHITMAN: Are you active in either
7 El Salvador or Honduras?

8 MR. URBANY: No, we're not. We're not. But
9 we would anticipate in this CAFTA that there would be
10 probably a chapter or a section on telecommunications
11 that would apply to all. With respect to El Salvador
12 and Honduras, both of those countries have signatories
13 to the WTO basic telecommunications agreement and a
14 reference paper that is associated with that.

15 CHAIRPERSON SURO-BREDIE: Treasury.

16 MS. SANMIGUEL: I'm wondering what capacity
17 building could be used to help ameliorate the
18 situation and what we could do to make investment
19 climate in the legal framework better.

20 MR. URBANY: Well, I think so far as
21 capacity building, I believe there is an issue. As
22 these countries have opened up their markets and have
23 created regulatory agencies, they have not been able

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1 at this point to put in sufficiently strong regulatory
2 agencies.

3 To the extent that U.S. regulators, the
4 Federal Communications Commission, might be in a
5 position to offer training or training provided
6 through the United States Telecommunications Training
7 Institute, that would help build a cadre of
8 professional persons. Quite apart from that there may
9 be government programs in the administration's effort
10 for capacity building that might be directed in the
11 regulatory area with respect to augmenting and
12 providing staff.

13 Sometimes staff is just insufficient so they
14 lack sometimes the professional abilities and also the
15 sheer numbers. The combination of the two means that
16 the regulatory agencies are not as effective as they
17 could be. And if there could be encouragement for the
18 governments to observe sometimes and follow their own
19 regulations and laws, that would be helpful, too.

20 Oftentimes when companies enter a market,
21 it's after a very careful due diligence with an
22 understanding of what the legal framework is, what the
23 laws are, what the regulatory policies are. And one

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1 of the problems for companies like Bell South and
2 others entering are to have those fundamental
3 regulations and laws not observed in practice after
4 investment is made. Probably not a new observation
5 for you.

6 MS. HEINZEN: What opportunities have -- I'm
7 sorry. What opportunities have been provided for
8 equal access to nationwide wireless licenses in
9 Central America?

10 MR. URBANY: What opportunities? Where the
11 governments have opened up their markets and
12 introduced competition, I would say there has been
13 opportunities. I could speak more directly of the
14 countries that we operate in, but in Guatemala there
15 are multiple wireless carriers and Nicaragua is moving
16 to a policy of multiple wireless carriers.

17 In Nicaragua there have been some of the
18 decisions and some of the transactions have been
19 clouded by various challenges and the question of the
20 propriety of how licenses may have been granted. I
21 would say in Panama, which is not part of the CAFTA
22 set of families, but in the region there is
23 environment there that has competition in wireless as

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1 well.

2 CHAIRPERSON SURO-BREDIE: Thank you very
3 much.

4 MR. URBANY: All right. Thank you very
5 much.

6 CHAIRPERSON SURO-BREDIE: Our last witness
7 for the morning is Brant Clatose, Program Director for
8 Central America. No, I'm sorry. I've got this wrong.
9 We have two more witnesses. Marcos Orellano first,
10 Center for International Environmental Law.

11 MR. ORELLANO: I would like to take this
12 opportunity to present our views on the CAFTA that is
13 about to be negotiated with Central Americas. The
14 United States and the countries in Central America are
15 beginning negotiations on a Free Trade Agreement.
16 CIEL presents its views on the necessity for effective
17 environmental safeguards relating to trade and
18 investment.

19 The Trade Act of 2002 provides guidance to
20 USTR on the environmental provisions and dispute
21 settlement mechanisms that the United States should be
22 seeking in its trade agreements. We submit these
23 views and urge your support for the environmental

1 provisions encouraged and required by the Trade Act as
2 part of our effort to contribute to the advancement of
3 a constrictive agenda for sustainable trade and
4 investment in the CAFTA.

5 Before addressing specific environmental
6 provisions, we wish to note the concerns that our
7 organization has expressed regarding the U.S.
8 proposals on investment.

9 While the USTR proposals include some
10 potentially helpful elements, we believe that these
11 proposals will also permit challenges to environmental
12 protections that could undermine the Trade Act's
13 objectives on the environment including strengthening
14 the capacity of our trading partners to protect the
15 environment and ensuring that our trading partners
16 effectively enforce their environmental laws and do
17 not weaken or reduce their legal protections.

18 In our view, any failure to meet the
19 Congressional mandate that investors shall not receive
20 substantive rights greater than those available under
21 U.S. law will place the U.S. negotiating position at
22 risk of leaving other negotiating goals unmet.

23 The environmental provisions of the CAFTA

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1 should include, first, an independent citizen petition
2 mechanism. The agreement should include citizen
3 petitions as a supplement to the state to state
4 dispute settlement.

5 We believe citizen petitions are important
6 in order to implement the environmental obligations of
7 the agreement. A citizen petition process is critical
8 to ensuring that attention is brought to failures to
9 enforce environmental laws.

10 It would be imbalanced and inappropriate to
11 omit such a mechanism for environmental provisions
12 when U.S. previous proposals for investment
13 protections include a private right of action. This
14 imbalance will represent a failure to fulfill the
15 Trade Act's mandate to seek equivalent dispute
16 settlement mechanisms. At a minimum an effective
17 citizen submission process should result in the
18 preparation and public release of a factual record.

19 Second, a commitment on the part of each
20 country to effectively enforce its environmental laws.
21 This commitment should be enforceable through an
22 effective and streamlined state-to-state dispute
23 settlement mechanism. However, as we have noted

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1 previously, we also believe that this obligation
2 should be subject to a succinct petition process.

3 Third, a commitment on the part of each
4 country not to weaken its environmental standards.
5 This commitment should be enforceable through an
6 effective and streamline state-to-state dispute
7 settlement mechanism. To be meaningful, this
8 obligation must be subject to some form of dispute
9 settlement.

10 Fourth, a commitment to strengthen
11 environmental standards and enforcement of
12 environmental laws and to strengthen the capacity to
13 prevent and mitigate the effects on the environment
14 that stem from the trade agreement.

15 Such a commitment should be included in the
16 environmental provisions and subject to cooperative
17 capacity building efforts. Specific commitments on
18 how CAFTA intends to reduce or eliminate government
19 practices or policies that unduly threaten sustainable
20 development should be addressed.

21 Fifth, an environmental council. The CAFTA
22 should consider the creation of an environmental
23 council to oversee implementation of the environmental

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1 provisions of the agreement. We believe that
2 information disclosure and annual reporting on
3 environmental issues including standards, enforcement,
4 and environmental quality is a role that could
5 usefully be played by such a council.

6 The CAFTA should be accompanied by a program
7 to assess and improve international environmental
8 performance through cooperation, capacity building
9 assistance, and technology transfer. The lead agency
10 for this council in the United States should be the
11 U.S. Environmental Protection Agency. The last of the
12 recommendations, enforcement fines allocated by the
13 environmental council with NGO input.

14 In the past the United States has proposed
15 the violations of the agreement, environmental
16 provisions, be subject to fines rather than trade
17 sanctions. This is, indeed, an open question.

18 But if such a proposal goes forward,
19 decisions about how to spend such monies, presumably
20 to address the conditions giving rights to the
21 violation, must be made by the environmental council.
22 The process must include a formal and meaningful role
23 for input from civil society.

1 We understand that in the past the U.S. has
2 proposed to include an obligation to undertake
3 comparative environmental measures in trade
4 agreements. Such cooperation is essential to moving
5 towards sustainability and mitigating the
6 environmental impacts of increased industrial activity
7 and investment including in the areas of forestry,
8 fisheries, mining, wildlife conservation, air
9 pollution, toxic release inventories, energy
10 efficiency waste management services, and government
11 procurement.

12 We wish to underscore that new commitments
13 on environmental cooperation should also be
14 accompanied by new commitments on financing
15 environmental cooperation.

16 With respect to forests and forestry, we
17 would like to suggest the following items for
18 consideration on comparative mechanisms. Given the
19 concerns of the sustainability of forests and the
20 possibility that the CAFTA could contribute to the
21 deterioration of this situation, it is essential that
22 adequate cooperative measures are taken including the
23 following.

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1 Strengthening and expanding the protected
2 area system. This would include not only the public
3 protected area systems, but also initiatives by
4 private holders and community rights.

5 Second, support of environmentally
6 sustainable forestry, development and implementation
7 of independently certified sustainable forestry
8 practices. This is a crucial tool for the long-term
9 conservation of Central American forests.

10 Research, training, and financial assistance
11 should be generated by this agreement in order to
12 support voluntary efforts by timber companies to
13 transition to the production and consumption of Forest
14 Stewardship Council equivalent certified products.
15 The U.S. and the CAFTA agreement should not impose
16 affirmative restrictions on the labeling and
17 certification of sustainable forests or other consumer
18 products.

19 Third, cooperative mechanisms to ensure
20 adequate environmental review of potentially
21 environmentally damaging public infrastructure
22 projects. As investment under trade agreement
23 encourages such infrastructure projects, it is crucial

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1 that the environmental impacts are considered and
2 decisions made accordingly.

3 Fourth, comparative commitments to eliminate
4 illegal logging. Demand for species under pressure of
5 illegal logging and illegal trade and forest products.
6 For example, Big Leaf Mahogany, Sweet Tania
7 Microphalli, has been listed on Appendix II of the
8 Convention on the International Trade and Endangered
9 Species cited in their most recent copy 12 held in
10 Santiago, Chile.

11 This was a proposal submitted by Nicaragua
12 and Guatemala and we believe that Central American
13 countries will need support in implementing this
14 Appendix II listing for Big Leaf Mahogany.

15 To conclude, while we have attempted to
16 identify some examples of needed environmental
17 provisions, the views expressed here are not meant to
18 be a comprehensive review of all our concerns that we
19 have with regard to the CAFTA such as investment,
20 meaningful assistance to help improve environmental
21 standards, dispute settlement, and the need for
22 comprehensive environmental reviews that assess the
23 environmental implications of a CAFTA in both the

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1 United States and in Central America.

2 Also of great importance is the potential
3 contribution that a CAFTA could make to the broader
4 integration of Central America. Many thanks.

5 CHAIRPERSON SURO-BREDIE: Thank you. Our
6 first question will be from the USTR.

7 MR. FANTOZZI: Thank you. I wonder if you
8 could elaborate a little more on the idea of citizen
9 petitions. Would the citizens be petitioning their
10 own government or other governments and would the
11 basis of the petition be domestic law or something in
12 the Free Trade Agreement?

13 MR. ORELLANO: As to the appropriate forum
14 for hearing these petitions, we believe that it should
15 be placed in the agreement as the environmental
16 council. Part of the mandate of the environmental
17 council would be to hear these petitions and prepare
18 factual record.

19 As to the origins of these petitions, they
20 would include these commitments that we are suggesting
21 countries undertake such as the commitment on the part
22 of each country to effectively enforce its
23 environmental laws, a commitment on the part of each

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1 country not to weaken its environmental standards, and
2 the commitment to strengthen environmental standards
3 and enforcement of environmental laws. Those would be
4 the origins of the petitions.

5 MR. FANTOZZI: Thank you.

6 CHAIRPERSON SURO-BREDIE: The USTR was
7 particularly interested if you could give examples
8 about possible capacity building projects and
9 corporation projects.

10 MR. ORELLANO: Certainly. Some areas for
11 cooperation is most needed would be in the
12 institutional strengthening of those agencies in each
13 country that have the responsibility of ensuring that
14 environmental standards are enforced. This would be
15 a first area where cooperation would be necessary.

16 The second area would deal more with
17 substantive issues including, for example, the trade
18 in pesticides, trade in prohibited products. Then
19 also the treatment of hazardous waste. These would be
20 the areas that we would identify as priority for
21 cooperation besides the forestry and diversity issues
22 mentioned in the main presentation.

23 CHAIRPERSON SURO-BREDIE: And for capacity

1 building in addition?

2 MR. ORELLANO: For capacity building a focus
3 of capacity building should go to the local
4 municipalities in our view. The experience after 11
5 arbitrations have in Mexico, particularly the metal
6 clad case, shows the importance that local
7 municipalities become aware of environmental
8 management systems and of the environmental components
9 of local ordinances and local regulations.

10 CHAIRPERSON SURO-BREDIE: Thank you very
11 much.

12 MR. ORELLANO: Thank you very much.

13 CHAIRPERSON SURO-BREDIE: Our next witness
14 is Maria Corte, Program Director, Caribbean Latin
15 American Trade.

16 Welcome.

17 MS. CORTE: My name is Maria Corte. I am
18 the Central America Program Director for Caribbean
19 Latin American Action (CLAA). I am here to present
20 the following statement prepared by our organization's
21 Executive Director, Federico Sacasa, who unfortunately
22 was unable to be here today.

23 CLAA is a private, independent organization

1 that promotes private sector-led economic development
2 in the Caribbean Basin and throughout the Hemisphere.
3 It serves the goal of facilitating trade and
4 investment in the region by stimulating a constructive
5 dialogue between the private and public sectors to
6 improve the policy and regulatory environments for
7 business on both the international and the local
8 level.

9 The organization conducts policy-oriented
10 programs in sectors such as financial services,
11 transportation, energy, agriculture, apparel,
12 intellectual property rights, tourism,
13 telecommunications, and information technology.

14 CLAA is a non-profit, non-governmental
15 charitable organization governed by an international
16 Board of Trustees and funded primarily by
17 contributions from companies with a direct or indirect
18 stake in the Caribbean Basin's prosperity.

19 I am here today also as a member of the
20 Business Coalition for U.S.-Central America Trade.
21 Earlier this morning you heard testimony on behalf of
22 the Coalition by Jerry Cook, Vice President of
23 International Trade for Sara Lee Knit Branded Apparel.

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1 CLAA fully supports Mr. Cook's statement
2 that the negotiation of a commercially-meaningful
3 CAFTA that protects and promotes investment,
4 intellectual property rights, information technology,
5 trade facilitation and transparency, while eliminating
6 tariffs and non-tariff barriers and liberalizing trade
7 in services, will create new opportunities for U.S.
8 and Central American countries, workers and their
9 families and it is also important to the promotion of
10 a higher living standard throughout Central America.

11 Since its beginnings in the late 1970's as
12 the Committee on the Caribbean, CLAA has remained
13 committed to promoting private sector-led economic
14 development in the Caribbean Basin, our traditional
15 sphere of influence. Never has this need been more
16 relevant than it is today.

17 In April 2001, President George W. Bush
18 publicly unveiled his "Third Border" initiative
19 designed to enhance diplomatic, economic, health,
20 education and law enforcement cooperation &
21 collaboration with the islands of the Caribbean.

22 CLAA has wholeheartedly embraced this concept and we
23 have expanded it to encompass the entire Caribbean

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1 Basin region, including the countries of Central
2 America.

3 In the aftermath of September 11, the
4 geographic proximity of the Caribbean Basin to the
5 U.S. has become even more relevant in terms of the
6 United States' national security and strategic
7 interests. We believe that the United States is well
8 served by having politically stable and economically
9 sound countries along its borders.

10 We believe that the United States is ready
11 to help these countries if they are ready to help
12 themselves, and there has never been a better
13 opportunity to solidify the mutually beneficial
14 relationship between the United States and the
15 countries of the Caribbean Basin.

16 Defining the entire Caribbean Basin as the
17 "Third Border" of the United States, with Canada and
18 Mexico as the "first" and "second" borders simply
19 recognizes the reality of its geographic location.
20 The people living in the region are close enough to be
21 able to walk or take a boat ride to the U.S. if the
22 circumstances in their home country do not offer the
23 hope of a better future for their children.

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1 This is the essence of the challenge that
2 our neighborhood is facing. How do we create an
3 environment that will allow the people of the region
4 to believe in their future? Our thesis is
5 straightforward. Alone, these countries will not be
6 able to escape their circumstances. First, they must
7 come together as a region and second, they must forge
8 a closer relationship with their neighbor to the
9 north.

10 The "Third Border" provides the many small
11 economies that make up the region with a common
12 conceptual framework and a very real competitive
13 advantage for dealing with the harsh realities of
14 increased competition in the global economy and
15 endemic poverty in many of their home countries.

16 We submit that the United States' invitation
17 to enter into a Free Trade Agreement with Central
18 America ahead of other more developed markets such as
19 Australia, South Africa or Morocco, is, in itself,
20 tacit recognition of the geo-political importance of
21 the region. This has become even more pertinent in
22 light of the difficult situation facing many of the
23 countries in South America.

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1 The relative political and economic
2 stability of Central America as a whole serves only to
3 highlight the feasibility of making a real difference
4 in changing the way things have always been done in
5 that part of the world. We believe that a successful
6 negotiation of CAFTA is a crucial first step in
7 establishing the long-term stability and security of
8 the entire neighborhood.

9 We also believe that CAFTA, in and of
10 itself, will not be enough to drive forward to
11 conclusion the process of development, of reform,
12 liberalization and integration, that is currently
13 underway in the region.

14 Economic development is primarily dependent
15 upon the ability to consistently attract foreign
16 investment. Traditional sources of finance for
17 development, domestic savings, government aid,
18 multilateral agencies' assistance and commercial bank
19 lending, have fallen short and there is no reasonable
20 expectation that this will change anytime soon.

21 Foreign Investment has not come to the
22 region in sufficient quantities due to 3 fundamental
23 reasons:

1 1. The first is scale- markets are small and
2 inefficient.

3 2. Second, disorder. It is difficult to do
4 business because of entrenched bureaucracy and the
5 "culture of the seal."

6 3. And third, corruption which creates a lack
7 of predictability and an uneven playing field.

8 Accelerating the pace of transformation to
9 aggressively address these issues in Central America
10 is the key to attracting the foreign investment needed
11 for economic development. Access to the largest
12 market in the world provides a powerful incentive to
13 the business and political leaders of Central America
14 to come together and create a greater sense of urgency
15 in meeting these challenges head-on.

16 The harsh realities of **poverty** and
17 **globalization** will not go away. For this effort to be
18 successful, the private sector must take the
19 initiative in forging the public-private sector
20 partnership required to confront these obstacles.
21 Globalization can be an enabling and powerfully
22 liberating force if properly harnessed. Poverty can
23 only be alleviated if we embrace these forces and make

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1 them our own.

2 In support of our position, I would like to
3 share with you our recent experience with a Central
4 American investment forum that CLAA organized last
5 month in Managua, Nicaragua in collaboration with the
6 U.S. Department of Commerce. The theme of this
7 meeting was **CompromisoCentroAmerica**, Central American
8 Commitment.

9 More than three hundred leaders from the
10 region and the United States came together in an
11 extraordinary spirit of collaboration to discuss
12 meaningful ways to accelerate the process of
13 development in Central America. Very important
14 lessons were drawn from the dynamic discussions that
15 took place in each of the industry and public policy
16 workshops.

17 First and foremost, there was a clear
18 understanding that foreign investment, a necessary
19 prerequisite for economic development, will not come
20 to the region unless we address the issues of small
21 markets, difficult business practices and lack of
22 predictability whenever disputes arise.

23 Not surprisingly, the most common theme in

1 all of the workshops was the need for a uniform legal
2 and regulatory framework across the region to insure
3 that a well-defined set of values and rules is applied
4 equally and impartially to all parties. This is the
5 crucial first step in confronting the powerful twin
6 threats of endemic poverty and global competition.

7 Overcoming these forces is the most serious
8 challenge facing the region and must be addressed with
9 a greater sense of urgency. U.S.-Central American
10 negotiations to conclude a comprehensive and high-
11 standard trade and investment agreement are critical
12 to move this process forward.

13 In addition, we must recognize the important
14 role of the private sector. Without the unwavering
15 commitment of the private sector, the economic,
16 political, legal and social transformation that is
17 needed to bring about fundamental change in Central
18 America will be impossible.

19 The forces of globalization have taught us
20 that isolation is inimical to the region's prosperity.
21 Thus, the question is no longer how to protect
22 industries from competition, but how to make
23 industrial production competitive in the global

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1 market.

2 CLAA believes that a successfully negotiated
3 U.S.-Central America Free Trade Agreement is the
4 catalyst that will make this vision come to fruition.
5 We are presented with the "opportunity of our
6 generation." The opportunity to get it right.

7 Thank you for the opportunity to be with you
8 today.

9 CHAIRPERSON SURO-BREDIE: Thank you very
10 much. I had a question related to the uniform legal
11 framework. How did the CLAA group that met propose to
12 bring this about? Is the integration in Central
13 America so advanced that you could expect that to be
14 the case?

15 MS. CORTE: I don't believe it's so advanced
16 yet but that is precisely the point. They need to
17 come together and have a legal uniform system, one
18 voice. Be integrated and collaborate as partners and
19 not as enemies as they have usually.

20 CHAIRPERSON SURO-BREDIE: So is it CLAA's
21 position that they would want to see a more enhanced
22 integration more towards a common market because that
23 you wouldn't have unified regulated system. Would

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1 you?

2 MS. CORTE: What do you mean?

3 CHAIRPERSON SURO-BREDIE: Without a common
4 market structure it is unlikely that you would have a
5 unified legal framework for five countries. Would
6 you?

7 MS. CORTE: Yes. I don't understand the
8 question, but yes.

9 CHAIRPERSON SURO-BREDIE: I guess my
10 question was is CLAA asking or putting forward the
11 possibility that the acceleration of integration in
12 Central American take place?

13 MS. CORTE: Yes. Our efforts are aimed
14 towards that at the moment, yes.

15 CHAIRPERSON SURO-BREDIE: Thank you.

16 Do we have other questions?

17 MR. FANTOZZI: Do you -- does CLAA plan
18 other activities specifically in support of the Free
19 Trade Agreement in Central America?

20 MS. CORTE: Well, yes. It's an integral
21 part of our conference in December where we are having
22 the participation of President Volanos, President
23 Maduru, hopefully Francisco Flores. In our conference

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1 which traditionally includes the Caribbean as well but
2 this year our main focus is on Central America. We
3 are doing this in conjunction with American Apparel
4 and Footwear Association so their apparel program is
5 drawing a lot of attention from the Central American
6 region.

7 CHAIRPERSON SURO-BREDIE: Thank you.

8 From the Treasury?

9 MS. SANMIGUEL: Yes. We've spoken a little
10 bit during previous testimony about capacity building
11 and I'm wondering what you think, you know, what your
12 recommendations or your ideas are on that?

13 MS. CORTE: I would have to submit that in
14 writing.

15 CHAIRPERSON SURO-BREDIE: Could you send it
16 to GBLUE@USTR.GOV. Thank you.

17 Do we have further questions? Thank you
18 very much.

19 This meeting is adjourned until 2:00 p.m.

20 (Whereupon, the meeting was adjourned for
21 lunch to reconvene at 2:00 p.m.)
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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(2:10 p.m.)

CHAIRPERSON SURO-BREDIE: The hearing will come to order. Just to review, the subject of the hearing is the proposed negotiation of a pretrade area with five Central American countries. We will be listening to testimony today but we still are accepting written comments until noon, December 2nd.

Our first witness of the afternoon is Cherrene Horazuk -- I hope I'm pronouncing this correctly -- Executive Director, Committee in Solidarity with the People of El Salvador.

Welcome. Before you start, if I could just

1 review the rules for the testimony for the afternoon
2 session. Please keep your testimony to about five
3 minutes. We are generous on the side. At about eight
4 minutes I start waving my clock at you and then I cut
5 you off. Please start. Thank you.

6 MS. HORAZUK: Thank you for the opportunity
7 to testify today. My name is Cherrene Horazuk. I am
8 the Executive Director of CISPES, the Committee in
9 solidarity with the People of El Salvador.

10 CISPES as a 22-year history in partnership
11 with grassroots organizations working for social
12 change and sustainable development in El Salvador. We
13 are also part of a national coalition working to
14 prevent a trade agreement with Central America that is
15 modeled after NAFTA, the North American Free Trade
16 Agreement.

17 We are here today to voice our opposition to
18 CAFTA, based on many discussions with our partners in
19 El Salvador, including labor unions and community
20 organizations, who have expressed to us their grave
21 concerns and opposition to CAFTA.

22 They and we do not oppose trade or economic
23 relations among our countries. The rules that govern

1 those relations, however, must be democratically
2 developed and must be designed to ensure equitable and
3 sustainable development, including access to basic
4 human services. We do not believe that CAFTA, as it is
5 being developed currently, will ensure real human
6 development or democracy.

7 U.S. Trade Rep. Zoellick and his office has
8 recently stated that a primary objective of CAFTA is
9 to promote democracy and stability in Central America.
10 He has also stated, in his Oct. 1 letter to Congress,
11 specific U.S. objectives within the negotiations,
12 including the opening up of trade in services - i.e.
13 privatization.

14 We must point out that the specific
15 objectives of the US, such as privatization, are in
16 complete contradiction with the more general objective
17 of promoting democracy and stability in the region. As
18 proof of this, I would like to raise the example of El
19 Salvador.

20 The administration of President Francisco
21 Flores, with the support of the World Bank and IDE,
22 has been attempting to privatize the Salvadoran health
23 care system for the past 4 years. El Salvador is a

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1 country with extreme levels of poverty. The World
2 Food Organization has voiced concerns about a grave
3 food crisis in the coming months - 50,000 families are
4 facing starvation.

5 According to the Consejo Agropecuario
6 Centroamericano, 30 percent of the Central American
7 population suffers from malnutrition. Salvador has
8 had epidemics of cholera, dengue, and malaria in the
9 past months - all easily preventable diseases, if a
10 person has access to health care.

11 Yet, rather than seeking solutions which
12 will expand access to health care, President Flores
13 wants to transform the entire Salvadoran health care
14 system into a system where consumers must pay for
15 medical services. This system is referred to by many
16 as "Pago o Muerte" - "Pay or Die."

17 The vast majority of Salvadorans do not have
18 income levels that would allow them to pay for health
19 care. Over 35 percent of the population are outside
20 the formal economy. It is unacceptable for the U.S. to
21 push for privatization of essential services,
22 particularly at a time when there is much posturing in
23 Congress over reducing health care costs and

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1 increasing access for the U.S. population.

2 Flores's attempts to privatize health care
3 have been met with increasing opposition from his own
4 people. In 2000, health care workers and doctors
5 carried out a four-month strike to stop privatization.
6 Yet, President Flores was willing to do whatever was
7 necessary to ensure these policies moved forward.

8 I was in El Salvador in March 2000, when in
9 an effort to end the strike, the Salvadoran government
10 ordered the PNC (National Civilian Police) to attack
11 the strikers. The PNC fired teargas into the crowd,
12 not caring that they were jeopardizing the health and
13 safety of patients in the emergency room and oncology
14 hospital, as well as risking the lives of small
15 children in the nearby daycare center. This is not an
16 action that speaks of increasing stability or
17 democracy.

18 This year, the Flores administration has
19 renewed their privatization efforts, perhaps thinking
20 they will gain favor with the U.S. administration,
21 which wants to see further privatization. Yet again,
22 the Salvadoran population is meeting them with large-
23 scale opposition.

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1 The doctors, nurses, and workers of the ISSS
2 are once again on strike, calling for an end to
3 privatization efforts. They have the wholehearted
4 support of the Salvadoran population. Recent polls
5 show that 69 percent of the population is opposed to
6 privatization.

7 On October 23, an estimated 200,000
8 Salvadorans marched in the capital against
9 privatization. This is the proportional equivalent of
10 11 million Americans marching in Washington, DC.

11 On Thursday of last week -- I just want to add this --
12 the legislative assembly of El Salvador passed a law
13 that would declare privatization of the health care
14 system unacceptable.

15 The president has agreed to not veto that
16 law and that he will actually sign it into law. This
17 was a law passed by the democratically elected
18 legislative assembly. Any rollback to that law, I
19 think, would be met with great resistance.

20 We join our Salvadoran partners in opposing
21 CAFTA for many reasons, but particularly because of
22 the U.S. objective to push privatization of services.
23 There can be no advancing of democracy when policies

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1 are pursued that the vast majority of the population
2 opposes. And if these policies are pursued against
3 the will of the population, that population will
4 organize and mobilize to defend their interests,
5 creating great social instability.

6 If the U.S. is truly interested in advancing
7 democracy and stability in the region, they should not
8 be seeking a trade agreement that calls for
9 privatization. Nor should they seek an agreement that
10 does not place human and sustainable development at
11 the center of the agreement.

12 Thank you.

13 CHAIRPERSON SURO-BREDIE: Thank you very
14 much. We neglected to introduce the panel which we
15 must do so that the transcription will be correct.

16 If I could start on the far left with Mr.
17 Clatanoff.

18 MR. CLATANOFF: I'm the Assistant U.S. Trade
19 Representative for Labor.

20 MS. WHITE: I'm Betsy White from the Labor
21 Department.

22 MS. SANMIGUEL: Carmen SanMiguel from the
23 Department of Treasury.

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1 MR. SIEGELMAN: Mark Siegelman from the
2 Department of Commerce.

3 MS. SURO-BREDIE: Carmen Suro-Bredie.

4 MR. FANTOZZI: I'm Dan Fantozzi, USTR.

5 MS. ROE: Charlotte Roe, State Department.

6 MR. LEAHY: Dan Leahy, U.S. International
7 Trade Commission.

8 CHAIRPERSON SURO-BREDIE: Thank you. Our
9 first question will be from the Department of Labor.

10 MS. WHITE: I was interested in your
11 description of the activities in opposition to this
12 privatization, and particularly the fact that the
13 health care workers took to strike. I assume this is
14 outside the normal rules of the deal with the right to
15 strike. How are strikes regulated in El Salvador?

16 MS. HORAZUK: It is legal to strike in El
17 Salvador. At the beginning of the strike actually the
18 president attempted to declare the strike illegal
19 based on a state of emergency which had been declared
20 because of a Dengue epidemic.

21 However, I would need to definitely clarify
22 this but my understanding was that his finding was
23 then thrown out by the Supreme Court. The strike was

1 declared legal and people did continue. It is
2 something that striking is definitely a right that is
3 given, I think, in the constitution. If not in the
4 constitution, then definitely within Salvadoran labor
5 law.

6 MS. WHITE: The other thought I had, and it
7 sounds like the strikes were sort of successful in
8 that the legislation did pass this law that says that
9 it was not acceptable to privatize.

10 One of the things I think we found in our
11 experience in privatization efforts, along with many
12 other things, that efforts by the government to have
13 consultations and some sort of effort at dialogue with
14 civil society and those affected tends to help
15 mitigate and get people to sort of not oppose and
16 understand each other. Have there been such efforts
17 in your country?

18 MS. HORAZUK: Well, just to clarify, I'm
19 from the U.S. but I work on the issue of El Salvador.
20 I think that the strike was successful -- has been
21 successful, due to a combination of the strength of
22 the unions, of the doctors, the workers, the nurses,
23 as well as the patients, the recipients or consumers

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1 of health care who saw that they would lose their
2 opportunity to have any level of health care if it was
3 privatized.

4 In terms of the dialogue and attempts to
5 reach consensus carried out by the government, I think
6 I would disagree with the way that you formulated it.
7 Following the strike in 2000 one of the agreements
8 that was reached and brought into that strike was that
9 there would be different negotiating tables that would
10 be set up that would involve members of the doctor's
11 union, the medical association, the workers, as well
12 as government representatives' management of the
13 social security system.

14 They spent several months attempting to
15 dialogue and reach agreements on reforms to the health
16 care system without privatization on different labor
17 quality issues, etc., and they fell apart completely.

18 From discussions that we've had with the
19 organizations that we relate to in El Salvador, they
20 have felt -- the unions and the doctors felt that the
21 government was being fairly intransigent and once
22 again brought up the issue of privatization from the
23 outset of this strike and the months prior to the

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1 strike the Salvadoran government absolutely refused to
2 negotiate with the workers.

3 President Flores said that he would not
4 speak with them at anytime. It was only once hundreds
5 of thousands of people took to the streets and said,
6 "We have no other option. You need to listen to us,"
7 that there was actually a breakthrough in the
8 dialogue. Not breakthrough in the dialogue but that
9 forced the Salvadoran government to listen a little
10 bit.

11 When the Salvadoran legislative assembly had
12 actually passed one law outlawing privatization of the
13 health care system and President Flores did not veto
14 that but he sent it back to the legislative assembly
15 completely gutted of the anti-privatization clauses
16 and wanted to get another law passed that wouldn't
17 stop the privatization.

18 The legislative assembly, once again,
19 reintroduced the anti-privatization legislation,
20 passed that with a majority vote. At that time
21 President Flores conceded and said that he would sign
22 that into law. It's not yet been signed into law but
23 he did say that he would. I think it was less due to

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1 dialogue and willingness and more due to pressure from
2 all levels.

3 MS. WHITE: Thank you.

4 MS. HORAZUK: Thank you for the lengthy
5 answer.

6 MS. WHITE: That's okay.

7 CHAIRPERSON SURO-BREDIE: Our next question
8 will be by Dan Fantozzi of USTR.

9 MR. FANTOZZI: Given that the law has been
10 passed and the president has said that he will sign
11 it, do you consider this issue closed?

12 MS. HORAZUK: I have great concern and fear
13 based on what happened following the strike in 2000
14 that there will be further attempts to privatize.

15 Throughout this whole process there have
16 been numerous ways that the administration of the
17 social security institute and the government have
18 attempted to wiggle around legislation and put forward
19 new privatization efforts referring to it as
20 concessioning of services, changing the terms that
21 they are using in an attempt to avoid and escape the
22 letter of the law.

23 My concern is that there will again be

1 attempts to do that. I'm particularly concerned that
2 they are going to further work on privatizing the
3 health care system, as well as electricity and other
4 essential services because the U.S. has said that one
5 of the objectives of negotiation the Central America
6 Free Trade Agreement is to ensure the opening up of
7 access to services and opening up that market which to
8 me means there's going to be a push for privatization.

9 I think that will leave the government to
10 really try and find as many ways as possible to
11 privatize essential services regardless of the laws
12 that have been passed, regardless of the perspective
13 and will of the population which has said over and
14 over that they are opposed to it.

15 MR. FANTOZZI: Thank you. Services, of
16 course, can be understood in many different ways.
17 There are some services that we would consider more or
18 less public utilities in this country, or had been
19 considered historically public utilities. I think, of
20 course, there are other services, in this country
21 anyway, that have always been in private hands like
22 financial services.

23 I think it's worth noting that the con

1 services agreements in the WTO does not require
2 countries to privatize or deregulate any service
3 activity. The U.S. has not requested this from any
4 country in the WTO that we have been working with this
5 year. I think from what you have said, that kind of
6 position would be consistent with what you are asking.

7 MS. HORAZUK: I'm not entirely sure that I
8 understand the question but my sense is I think they
9 are very different perspectives from consumers and
10 from populations and from governments and officials as
11 to what are essential services.

12 I think that many people -- I would agree
13 there are basic services here that are privately owned
14 and operated and that I think the vast majority of the
15 population here has access to in the United States.

16 I think that given the levels of
17 unemployment and poverty in Central America, I think
18 the vast majority of the population feels that those
19 services are essential and that they cannot actually
20 afford them if they are not provided, if they are set
21 on the open market and people just have to pay
22 whatever rate is charged to them, whatever is
23 possible.

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1 I think on that level I'm not sure -- having
2 not seen exactly what the U.S. objectives are, which
3 services they are talking about, I would just voice my
4 concern that the U.S. will continue to push for
5 privatization of services that we might not consider
6 essential to the opening up of services we might not
7 consider essential that the populations there would.

8 CHAIRPERSON SURO-BREDIE: I think probably
9 just not to belabor the point, I think what we wanted
10 to leave on the record is that the United States
11 doesn't seek to privatize or deregulate any service
12 activity whether its essential or nonessential. That
13 has been our position.

14 MS. HORAZUK: I think that would be well
15 received from the populations in Central America. I
16 don't know if that's their understanding of the
17 situation.

18 CHAIRPERSON SURO-BREDIE: We have to do
19 something. Thank you.

20 Do we have other questions from the panel?

21 Thank you very much.

22 MS. HORAZUK: Thank you.

23 CHAIRPERSON SURO-BREDIE: Our next witness

1 is William Hernandez, Executive Director for the
2 Nejapa -- is that the correct pronunciation? --
3 Foundation. Welcome.

4 MR. HERNANDEZ: Good afternoon. My name is
5 William Hernandez. I'm the Executive Director of
6 Nejapa Foundation.

7 Thank you for the opportunity to testify
8 today. The Nejapa Foundation represents 32,000
9 community residents in the City of Nejapa, El
10 Salvador. We work to encourage democratic
11 participation of communities in the decisions that
12 affect them; to promote sustainable economic
13 development; and to protect the communities'
14 historical, cultural and environmental wealth.

15 Not just the people of Nejapa, but millions
16 across El Salvador are deeply concerned about the
17 effects of a possible Free Trade Agreement with the
18 United States. We reject the U.S.-Central American
19 Free Trade Agreement because it would deny the
20 Salvadoran people our right to vital public services,
21 undermine democratic participation, and dismantle the
22 democratic transition in El Salvador.

23 U.S. Trade Rep. Zoellick and his office has

1 recently stated that a specific U.S. objective within
2 the negotiations is the opening up of trade in
3 services - i.e. privatization. This suggests to us
4 that in El Salvador, vital social services currently
5 provided by the state would be sold off to private
6 providers.

7 But there is a reason that these services
8 are public, and should remain so: only the state can
9 guarantee provision of services to which the majority
10 of Salvadorans currently lack access. According to a
11 United Nations Development Program study, only 17
12 percent of all Salvadorans have access to health care
13 coverage and 12 percent have access to secondary
14 education or higher. Likewise, only 25.5 percent of
15 rural families have access to electricity and clean
16 drinking water in their homes.

17 Through rate hikes, privatization of vital
18 public services denies access to people: a study by
19 the Center for the Defense of the Consumer shows that
20 since the privatization of electricity distribution in
21 1998, home electricity costs have risen by 221 percent
22 while real family income has actually decreased by
23 5.65 percent, and therefore fewer Salvadorans can

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1 afford electricity than before privatization.

2 In this way, by placing vital public services for sale
3 to the private sector, CAFTA would deny these services
4 to the majority of Salvadorans.

5 The communities that I represent are part of
6 a national movement that rejects the continued
7 privatization of public services. This movement is
8 committed to guaranteeing access to vital public
9 services for all Salvadorans. Our elected
10 representatives have passed legislature outlawing the
11 privatization of state-run public services. But our
12 proposals are being disregarded by Salvadoran
13 President Francisco Flores.

14 We have been left no other option but to
15 take to the streets to defend these rights: as part of
16 a two-month-long national strike against the
17 privatization of health care, tens of thousands of
18 Salvadorans have repeatedly blockaded highways,
19 bridges and border crossings, paralyzing commerce and
20 industry.

21 On October 23, the communities of Nejapa
22 joined over 200,000 other Salvadorans, or four percent
23 of the population of El Salvador, in a march against

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1 privatization. We will not permit our children to be
2 denied the right to health, as is stipulated in
3 Article 1 of the Constitution of the Republic or any
4 other public service vital to the maintenance of life
5 and well-being.

6 CAFTA negotiations' will intensify the
7 already-strong popular resistance to privatization,
8 destabilize the country, and undo ten years of
9 democratic transition since the 1992 Peace Accords
10 that ended the twelve-year civil war.

11 Over the course of the peace process, we
12 have learned to construct participatory democracy from
13 below. In Nejapa, communities democratically make the
14 decisions that affect them. The Nejapa Foundation
15 works to empower women, youth and other marginalized
16 sectors to define their own present and envision their
17 own future.

18 For this reason, we are concerned that CAFTA
19 would include provisions like Chapter 11 of NAFTA,
20 which undermine the principle of community self-
21 determination and dismantle this process that we have
22 worked so hard to build. We are committed to
23 guaranteeing the continuation of the democratic

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1 transition in El Salvador, and the strengthening of
2 participatory democratic decision-making structures in
3 our communities.

4 Our communities will not allow multinational
5 corporations to block this process in their search for
6 greater profits. The people of El Salvador are
7 building a better future for ourselves and our
8 children. We want sustainable economic development, we
9 want to eradicate poverty, we want to leave a stable
10 democratic nation to our children. But CAFTA does not
11 contribute to this project. Our alternative is
12 different from yours.

13 CAFTA would destroy, not construct, all that
14 we have worked so hard to create. We reject the U.S.-
15 Central American Free Trade Agreement because it would
16 deny the Salvadoran people our right to vital public
17 services, undermine democratic participation, and
18 dismantle the democratic transition in El Salvador.
19 We urge the U.S. government to not negotiate a Free
20 Trade Agreement with Central America.

21 Thank you for your attention.

22 CHAIRPERSON SURO-BREDIE: Thank you very
23 much, Mr. Hernandez.

1 Our first question will be asked by USTR.

2 MR. FANTOZZI: Thank you. I would just like
3 to reiterate what was said to the last speaker. In
4 the current services agreement in WTO does not require
5 privatization or deregulation of any services. The
6 U.S. has not requested any of our partners in the WTO
7 that they privatize public services.

8 I think when we talk about services we have
9 to also realize that there are services in some
10 countries such as accounting and banking which are
11 privatized but which foreigners are not allowed to
12 participate in. I think that in order to judge CAFTA
13 on that issue, you really need to see what the United
14 States proposes in that area in more detail than has
15 already been spoken about.

16 For a question, I understood your arguments
17 except I didn't understand why you thought that CAFTA
18 would undermine democratic participation and dismantle
19 the democratic transition.

20 MR. HERNANDEZ: Well, first of all, because
21 when the government of El Salvador is talking about
22 negotiating CAFTA has consulted with the El Salvadoran
23 people whatsoever whether or not they can privatize

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1 electricity, for instance.

2 Telecommunications were privatized and never
3 consulted with people. I think that one of the
4 democratic principles will be perhaps that the
5 Salvadoran government should ask the Salvadoran
6 population what we want.

7 Besides that, our experience has not been
8 that there is the idea of the government of El
9 Salvador or the government of the United States that
10 will tell us that they want sustainable development
11 for El Salvadoran people. It's has not happened such
12 a thing.

13 During the war we were talking about 14
14 families. Right now we're talking about five families
15 that concentrate the economic wealth. By all means
16 the political power in El Salvador. For one, I think
17 that the El Salvador government have to consult with
18 us.

19 Not just on elections, but they have to, and
20 they must, ask the Salvadoran population what they
21 want and what they think about sustainable
22 development. I don't think the CAFTA will provide us
23 but we will provide more money to the already richest

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1 families in El Salvador and I don't think that is a
2 democracy.

3 MR. FANTOZZI: That is certainly not the
4 intent, but thank you very much.

5 CHAIRPERSON SURO-BREDIE: Other questions?
6 But Clatanoff from USTR.

7 MR. CLATANOFF: I don't want to over-
8 emphasize this too much but would it be legal for a
9 physician in El Salvador today to open a private
10 practice and charge patients on a fee-for-service
11 basis?

12 MR. HERNANDEZ: Any doctor can open its own
13 office, but it is the obligation of the state to
14 provide health care for everybody.

15 MR. CLATANOFF: The obligation of the
16 institute for social security to provide basic levels
17 of health care, but you do allow the private practice
18 of medicine.

19 MR. HERNANDEZ: Of course.

20 MR. CLATANOFF: All we're asking for when we
21 say to open up services to trade would be that the
22 requirements for licensing and the requirements for
23 practice for an American or a Guatemalan or Honduran

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1 or Costa Rican to get a license to have a private
2 practice for medicine be the same as for an El
3 Salvadoran.

4 That is what is known as national treatment.
5 That's all we're asking for. We are not -- nothing in
6 any of our trade agreements would ever say whether or
7 not the government of El Salvador had a social
8 security system and what level of services were
9 provided by that social security system. I just want
10 to make sure that you understand that. Thank you.

11 MR. HERNANDEZ: Yeah, but I think the United
12 States has the obligation perhaps to make sure that
13 the president of El Salvador understands that because
14 when they try to privatize the social security which
15 is more than 50 years old, for sure no Salvadorans is
16 going to be able to buy the social security hospital
17 but it's going to be HMO from the United States.

18 We don't agree with that. Whoever want to
19 go to El Salvador can pass the law and can open a
20 clinic if they want to. But the state, according to
21 Article I of the constitution, have to provide to
22 everybody health care.

23 MR. CLATANOFF: But your statement says that

1 only 17 percent of all Salvadorans have access to
2 health care now.

3 MR. HERNANDEZ: And we have tried to expand
4 it because it's not enough.

5 MR. CLATANOFF: Okay. Thank you.

6 CHAIRPERSON SURO-BREDIE: Thank you. The
7 next witness is Susan Saudek, Acting Policy Director
8 of the Share Foundation.

9 MS. SAUDEK: Hello and thank you for giving
10 me this opportunity. I am Susan Saudek. I am the
11 Acting Policy Director for the SHARE Foundation:
12 Building a New El Salvador Today. We are an
13 organization that has worked in El Salvador for more
14 than 20 years on alternative models of development and
15 capacity building.

16 I am here today to testify on behalf of the
17 rural poor of El Salvador, especially the organized
18 poor. I have to tell you that there is a real concern
19 about the upcoming trade agreements.

20 One of our partners, CIDAR, a broad-based
21 coalition of small farmers and cooperatives has said
22 it very clearly. "There can be no participation in
23 any trade agreement starting from a position of

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1 unequal national advantage."

2 So with a Salvadoran rural perspective, I
3 want to speak to you about three areas that make the
4 upcoming negotiations non-viable.

5 1. The current uneven playing field between
6 countries. That is the unbalanced predominance of
7 poverty in the rural sector of El Salvador.

8 2. Unequal capacity between developed and
9 developing nations.

10 3. The lack of transparency in the negotiating
11 process.

12 Lets take a look at #1; CONCENTRATED POVERTY
13 IN THE RURAL SECTOR.

14 It is a fact, that the majority of the
15 Salvadoran poor live in the rural sector. The sector
16 has clearly been abandoned. El Salvador has been
17 primarily an agriculturally based economy, yet since
18 the mid 1980s the government has made a clear decision
19 to shift from an agricultural to a maquila based
20 production/export economy.

21 But producing what? El Salvador does not
22 produce high-value products such as automobiles, or
23 computer parts. It produces a large labor force that

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1 is for sale to foreign companies. So the choice to
2 shift from agriculture and agro-processing to industry
3 has meant a huge growth in the number of maquilas
4 mainly located close to large urban areas. But these
5 are not stable jobs, and the maquila is not the answer
6 to development.

7 Investment in rural credit, roads,
8 education, health, and technological transfer has come
9 to a near halt. Productivity of the rural sector
10 labor force in the 1990s is the second lowest in Latin
11 America (only lower in Haiti). Importations of corn
12 have increased from 6 percent in 1980 to 46 percent
13 today. Due to very high U.S. subsidies, it is cheaper
14 to buy corn from Cargill than to grow it in El
15 Salvador.

16 Food security is at issue here. Massive
17 increase in food imports will only be exacerbated by
18 a Free Trade Agreement (FTA). Competitiveness
19 requires investment in rural productivity.

20 Just a month ago SHARE celebrated its 20th
21 anniversary and we held a national conference here in
22 DC. More than 200 people from our base came including
23 20 from El Salvador. During those two days we had

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1 meetings with the IDB, U.S. AID and I was with the
2 group that went to the Inter-American Development
3 Bank.

4 One of my group, Delia, said it very loudly
5 and clearly. "This trade package means our death.
6 We've seen it in Mexico. Small farmers who can't
7 compete lose their lives. "

8 Without credit the small farmer is forced to
9 seek off-farm work, which for miles around does not
10 exist, so they are forced to go to the cities. The
11 cities cannot support the influx of poor so many of
12 them have to leave. It's astounding to think that
13 it's about 400 people leave a day to make the illegal
14 trek across borders to the North.

15 Jobs are simply not being created, and with
16 unemployment, violence is on the increase. The
17 national police estimate an astounding murder rate of
18 2,400/year or 40 for every 100,000 population. This
19 is the highest rate in Central or South America.

20 Those who make it to the US, find rejection
21 here too. Some survive because they have family or
22 friends here who will take them in and vouch for them
23 until they can get work papers. And what is the first

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1 thing they do with a paycheck? They send a good part
2 of it back to their Salvadoran families.

3 You have all heard of remittances. For El
4 Salvador it adds up to 2 billion dollars a year or 13
5 percent of their national budget. It's been
6 sarcastically said that the present Salvadoran
7 government's rural policy is forced immigration of
8 their people to increase remittances.

9 Auxiliary bishop Monsenor Rosa y Chavez, who
10 also accompanied us in our DC annual conference said,
11 "We are a country that is expelling its youth. We are
12 breaking up the fabric of the family."

13 Trade is NOT a poverty reduction solution
14 for El Salvador and if you ask Salvadorans in the US,
15 they will tell you that if economic conditions
16 improved in their country, they would be the first to
17 return. Every Salvadoran is fighting for poverty
18 reduction. The question is: Can trade actually
19 reduce poverty not just further reward the rich and
20 powerful?

21 Which brings me to my second point. UNEQUAL
22 CAPACITY BETWEEN DEVELOPED AND DEVELOPING NATIONS.

23 Capacity to compete and capacity to

1 negotiate. So what is our position? We support trade
2 as a means of development leading to poverty reduction
3 not as an end in itself. Trade must be fair. For
4 trade to be fair there has to be the opportunity as
5 well as the ability to expand exports. In the long
6 run this is critical to poverty reduction.

7 Opportunity means opening access to markets,
8 most of all in rich countries. Ability involves both
9 the technical skills and social safeguards to
10 participate effectively in global markets. Certain
11 types of capacity strengthening measures provide these
12 safeguards.

13 Development assistance to Central America
14 should increase significantly to deepen this U.S.
15 commitment to a level playing field on which all
16 trading countries, rich and poor, may benefit.
17 From what we know about CAFTA, we do not think it
18 comes close to fulfilling these criteria.

19 In reality, the trade-growth-poverty
20 reduction link is far from clear. The trend has been
21 toward lowered barriers to trade, but the benefits
22 have favored the more protectionist, developed
23 countries. Agriculture is a case in point.

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1 To level the playing field in agricultural
2 trade and to increase El Salvador's opportunity and
3 ability to compete, there are elements that must be
4 put in place before any agreements start.

5 Our partners in country, CIDAR have outlined
6 these prerequisites to fair trade:

7 Tariff and non-tariff protection for
8 Salvadoran and Central American agricultural products.
9 The reduction of tariff and non-tariff barriers that
10 protect agro food products in the United States.
11 Implementation of policies that strengthen the rural
12 productive fabric.

13 This is a whole complement of programs and
14 policies to level the playing field need to be in
15 place; Innovative Technology for the strengthening of
16 agro food chains; work training programs; access to
17 land, principally for rural women who have been
18 excluded; creation of a rural development Bank and a
19 fund for rural development. And there are others.

20 Implementation of an adequate social policy:
21 improved rural educational; modernized and amplified
22 health care and social security, dignified housing,
23 expansion of the road network to rural communities,

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1 distribution of potable water and basic rural
2 sanitation.

3 In the area of environment: payment for
4 environmental services; establishment of importation
5 regulations of transgenic products, prohibition of
6 privatization of native genetic materials, improved
7 management of water resources and economic incentives
8 for agro ecological practices.

9 Migratory policy: migratory agreements
10 should be established that permit the temporary
11 mobilization of men and women rural Salvadoran workers
12 to the labor market in the United States.

13 The third and final issue I will discuss is
14 the LACK OF TRANSPARENCY IN THE NEGOTIATING PROCESS.

15 What mechanisms are in place to assure that
16 there is consensus between government and civil
17 society before any agreements are signed? And on an
18 international basis what access to information do the
19 small Central American countries have so they can
20 capably negotiate with the powerful US?

21 Capacity to negotiate trade agreements is
22 decidedly skewed in favor of rich countries. The U.S.
23 Department of Agriculture has untold numbers of Ph.Ds

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1 working on studies of models of the effects of FTAA to
2 advise USTR negotiators, while Latin American
3 countries have nearly none.

4 So I would like to conclude by stressing
5 these concerns for your consideration:

6 1. The proof that Free Trade Agreements
7 lead to poverty reduction is in serious question.

8 2. Negotiations on agricultural products
9 must start from a level playing field between all
10 countries. Capacity of El Salvador's rural sector to
11 compete must be a prerequisite.

12 3. Negotiations must be transparent.
13 Information must be available to civil society as well
14 as congressional oversight committees. And Salvadoran
15 civil society should be given meaningful opportunities
16 for participation in the shaping of agreements.

17 It is not a matter of whether or not to have
18 fair trade. It is about how to make any trade fair.
19 I am not talking about a bumper sticker slogan. I am
20 talking about real lives. We have to put our heads
21 together and figure out how to make trade fair with
22 benefits for all.

23 Thank you very much.

1 CHAIRPERSON SURO-BREDIE: The first question
2 will be by the Department of State.

3 MS. ROE: Thank you for your testimony. I
4 wonder if you could elaborate or suggest ways to
5 ensure that small to medium-size enterprises, for
6 example, the cooperatives that you mentioned, be able
7 to take advantage of the benefits of a U.S. CAFTA, for
8 example, through the development of technical skills
9 as mentioned in the statement.

10 MS. SAUDEK: I think that's the way it
11 should be. They should be able to have a skill base,
12 technical understanding of development of agricultural
13 business, for example, to make them competitive.
14 That's what exactly has been missing in El Salvador.

15 There's been, as I said at the beginning of
16 my statement, a complete turning away from the
17 agricultural sector. There is a belief from the
18 Salvadoran government that the agricultural sector is
19 no longer viable, even small agricultural business.
20 They see other ways to compete.

21 Yet, it's the major population is still
22 agricultural base. Our concern is that the government
23 of El Salvador pay attention first to its own needs so

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1 that it can compete with any agricultural business
2 with the United States.

3 MS. ROE: Thank you. Could you be a little
4 bit more specific in sharing with us exactly what
5 kinds of mechanisms or processes you think could be
6 the avenue to ensure that these skills be developed?
7 Whose responsibility would it be, for example, as
8 well?

9 MS. SAUDEK: I think that the Ministry of
10 Agriculture is one of the responsible parties. And I
11 believe through more investment. Through credit plans
12 for technical assistance. I forget what they call it
13 in the United States when you give technical
14 assistance to farmers.

15 That idea to have a budgeted line that helps
16 farmers, particularly small farmers and coops, go from
17 growing something and trying to sell it at a market to
18 move into a more technical area and do agricultural
19 business, agricultural processing, manufacturing that
20 can happen in the agricultural sector so that these
21 people don't have to move, to migrate.

22 MS. ROE: Thank you.

23 MS. SAUDEK: Sorry that the agricultural

1 representative isn't here this afternoon.

2 CHAIRPERSON SURO-BREDIE: We'll see that
3 they hear about your testimony.

4 The next question by USTR.

5 MR. FANTOZZI: Thank you. Of course, you
6 mentioned that the United States is providing
7 technical assistance to help with the negotiation
8 process in the IDB. The countries themselves have
9 identified a number of priorities for the trade
10 capacity building assistance that we are providing.

11 One of them is something that has come up
12 today in at least two or three of the speakers, and
13 that is conducting a dialogue with civil society. How
14 would you feel -- I mean, how could we best help that,
15 I guess is what I'm trying to say, using our trade
16 capacity building assistance?

17 MS. SAUDEK: How can you encourage open
18 civil society dialogue on these trade negotiations?

19 MR. FANTOZZI: Yes.

20 MS. SAUDEK: I think that you are the might
21 United States and you can --

22 MR. FANTOZZI: Of course we could just say,
23 "Do this and if you don't do it we won't do anything."

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1 As a practical matter, is there a problem with the
2 ability of these governments to actually carry out --
3 let's assume for a moment that these governments have
4 the will to carry out dialogue with civil society. Is
5 there a problem with their capability to do so?

6 MS. SAUDEK: Civil society's capability?

7 MR. FANTOZZI: The government's. Society.

8 MS. SAUDEK: I don't think so. I think that
9 it's a willingness more than a capability. I think
10 that there has not been an open process. There hasn't
11 been a space where people could come, sit down with
12 their own government to negotiate what their position
13 could be, and then have that translated to the
14 negotiating format with other countries. I don't see
15 it as a problem. It just hasn't happened.

16 MR. FANTOZZI: Okay. I have another
17 question.

18 CHAIRPERSON SURO-BREDIE: Please.

19 MR. FANTOZZI: You identified a number of
20 conditions for there to be a level playing field in
21 trade of agricultural products. One of them is
22 implementation of policies that strengthen the rural
23 productive fabric, etc., and then you give them a

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1 number of --

2 MS. SAUDEK: Yes.

3 MR. FANTOZZI: And then another is
4 implementation of an adequate social policy. Who are
5 you looking to to do that sort of thing? Whose
6 responsibility is it to carry that out?

7 MS. SAUDEK: I think the main responsibility
8 is the Salvadoran government. We know that it takes
9 money to do all of this and that money comes into the
10 Salvadoran government through foreign loans so there
11 is opportunity to influence the use of these monies.
12 It is the Salvadoran government's responsibility.

13 But, as I said, I don't think they have the
14 will at this point. They have just abandoned the real
15 sector. I think in terms of trade it can't be
16 abandoned. It's the only thing they have at the
17 moment unless its a maquila.

18 MS. WHITE: I have a question. You
19 mentioned the maquilas were not good jobs or something
20 like that. I can't remember exactly what you said.
21 Would you expand upon why you think that is not a good
22 alternative?

23 You have unemployment in the rural area but

1 you said the maquilas were primarily in the city.
2 That is a little bit of a disconnect to me, I mean,
3 people coming from the rural areas to the cities which
4 I think you did say. Also, what is the problem with
5 maquilas as a source of employment. Irrespective of
6 whether or not they should be shifting from the rural
7 to the maquilas, is there a problem per se with
8 employment?

9 MS. SAUDEK: I think maquilas offer jobs
10 that they didn't have in the rural sector and it does
11 give them some income. It is a job but it's not a
12 secure job. It's a job that is there because the
13 economic situation in the country is favorable to the
14 company that comes in and it could be an American
15 company that comes in and sews shirts, or it could be
16 a Korean company.

17 The minute the labor market becomes more
18 attractive in another country, those maquilas close
19 down and there's been no job security built into it.
20 Where are these people going to go? There's no
21 necessarily other business that they have been trained
22 for except to sit in front of a machine and sew. It's
23 a very temporary solution. It's not giving them

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1 skills for the future.

2 MS. WHITE: So you have had bad experiences
3 of maquilas coming and closing down and leaving?

4 MS. SAUDEK: Most definitely. The sad thing
5 to me is that because there is such an investment in
6 this particular -- as I said, the labor is what they
7 have for sale in El Salvador. These maquilas are in
8 the urban centers right now but they are taking up
9 prime agricultural land now to build maquilas farther
10 and farther out into the countryside. Yes, this may
11 give people local jobs but, again, it's so transient.
12 It's not secure.

13 CHAIRPERSON SURO-BREDIE: Thank you very
14 much.

15 Our next witness is Kathy Hoyt, Co-
16 Coordinator of Nicaragua Network.

17 MS. HOYT: Good afternoon. Thank you for
18 letting me testify. I work for the Nicaragua Network
19 which is an organization that for 23 years has
20 advocated for sound U.S. foreign policies toward
21 Nicaragua and provided information and organizing
22 tools to a network of about 200 solidarity and peace
23 and justice communities around the United States.

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1 We are part of a movement in the U.S.
2 opposing the CAFTA. The U.S. CAFTA coalition is made
3 up of solidarity and fair trade organizations from the
4 U.S. who are responding to a call from our Central
5 American partner organizations to organize a multi-
6 faceted campaign against CAFTA.

7 As part of that campaign we are circulating
8 an organizational sign-on statement, the People's
9 Declaration Against Free Trade Organizations.
10 Individual signatures are currently being collected in
11 all six countries that are negotiating on CAFTA. We
12 will submit this statement and signatures as part of
13 the written testimony on CAFTA on December 2nd.

14 I would like to read excerpts from that
15 statement for you today to give you a sense of the
16 opposition that is being raised to CAFTA throughout
17 Central America and the U.S. This is a joint
18 statement written basically by Latin America.

19 "People's Declaration Against Free Trade:
20 Based on our experience and work, the undersigned
21 organizations emphatically reject existing agreements
22 on trade and investment as well as those which are in
23 the process of being negotiated such as the FTAA,

1 CAFTA, and the PPP.

2 These agreements do not generate sustainable
3 development or create better jobs. On the contrary,
4 they increase public debt, threaten historic,
5 cultural, and natural wealth, and destroy national
6 sovereignty and food security. These Free Trade
7 Agreements undermine our people's struggle for a
8 democratic culture that promotes justice and equality.

9 The free trade treaties and the PPP are
10 agreements that form part of the hemispheric agenda of
11 the United States Government. The trade agreement
12 serves as the mechanism through which national legal
13 frameworks are modified subordinating national
14 legislation to the interest of transnational capital
15 and eliminating any possibility of regulating foreign
16 investment. This exclusionary model promotes the
17 privatization of public services including water,
18 health, social security, education, electricity, and
19 telecommunications.

20 The FTAA and CAFTA if implemented would
21 reaffirm and deepen the direction which existing trade
22 agreements have taken including free access for
23 foreign corporations, for government contracts and

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1 bidding, prohibitions on our national states which
2 impede application of capital controls enabling
3 corporations to sue a state in secret international
4 tribunals for perceived profit loss due to established
5 state regulations, and the protection of intellectual
6 property rights and paten regimes.

7 The FTAA and CAFTA if implemented would
8 promote a liberalized energy policy controlled by
9 transnational corporations which generate, transmit,
10 and distribute energy, a continental water market, and
11 a profit-driven agribusiness system that produces
12 genetically modified food under the control of
13 corporate interest of the United States.

14 The FTAA would also promote the
15 liberalization of strategic activities that until now
16 have been state controlled such as petroleum, natural
17 gas, water resources, forest reserves, and
18 biodiversity which represent attractive niches for
19 foreign, private investment.

20 The winners in the CAFTA and FTAA are
21 transnational corporations and their intermediaries at
22 the national level. The effects would be the
23 comodification of public services essential for life,

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1 the sale of natural resources, increasingly precarious
2 working conditions, higher unemployment, and
3 deteriorating health as a result of genetically
4 modified food consumption.

5 In addition to these effects, these
6 proposals are effectively supported by active counter-
7 insurgency projects. We issue a special call to adopt
8 a firm and aggressive stance against the
9 remilitarization of the region promoted by the
10 Government of the United States with the collaboration
11 of the respective Central American governments.

12 For these reasons, the undersigned
13 organizations, which we will turn in by December 2nd,
14 express our fierce opposition to the FTAA and CAFTA
15 because of the damage and negative impact that it will
16 have on the human rights of the people of Central
17 America. It is important to underscore the lack of
18 opportunity the countries of Central America have had
19 to exercise their right to self-determination and the
20 construction of a different Central America. We also
21 emphasize the particular nature of the impact of these
22 processes on socially vulnerable sectors such as
23 women, youth, and children."

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1 Thank you very much.

2 CHAIRPERSON SURO-BREDIE: Thank you. The
3 first question we have from the State Department.

4 MS. ROE: First I wanted to ask if you have
5 recommendations for specific initiatives or areas in
6 which capacity building in Central America could
7 effectively address some of your concerns.

8 MS. HOYT: I think a lot of that will come
9 from the Central American governments through the
10 years with the support of the international agencies.
11 I think up to this point that has not been an issue
12 for international donors, trade negotiators.

13 It's never been a condition of participation
14 in these agreements whether its the international
15 financial aid institutions and their loans or trade
16 agreements have never emphasized capacity building for
17 the Central Americans.

18 I think if this were an emphasis of our
19 trade demands, which so far have just been about
20 opening markets for investment, that would encourage
21 the local governments to begin to invest more in
22 capacity building for their own citizens and, thus,
23 level the playing field as the woman from Share who

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1 spoke before me emphasized.

2 MS. ROE: Thank you. Just one other
3 question. Did you want to elaborate any on the number
4 and range of organizations that you mentioned would be
5 provided later?

6 MS. HOYT: I speak mainly for the
7 organizations that I know that would be signing on
8 from Nicaragua are farm workers, consumer defense
9 network, and then there are a number of groups that
10 belong to that, human rights groups, community
11 movement, young environmentalists, and different
12 unions in the urban sector because the workers in the
13 maquila doras in Nicaragua don't see maquila dora work
14 as an answer either.

15 They see that the wages are so low that
16 while it is true that the rural mothers see their
17 children suffering from malnutrition, the urban
18 mothers who work in the maquila doras also see their
19 children suffering from malnutrition because the wages
20 are not enough to buy enough food in either case.
21 It's not an improvement for folks to come into the
22 cities. Those are the organizations; labor, farm,
23 consumer, community, environmental, human rights.

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1 MS. ROE: Thank you.

2 CHAIRPERSON SURO-BREDIE: Next question from
3 USTR.

4 MR. FANTOZZI: I would just like to --
5 perhaps you were in the room when I said this to
6 earlier speakers but the WTO services agreement, which
7 we are part, does not require privatization or forced
8 regulation of any service. Nor have we asked any
9 country in the WTO to do that. That's a statement.

10 I'm interested if you could elaborate a
11 little on this second to last paragraph. "In addition
12 to these effects, these proposals (which I guess is
13 the CAFTA) are effectively supported by active contra
14 sergeancy projects." Is there an active insurgency in
15 the region and what is the relationship of CAFTA?
16 What relationship to you see for CAFTA?

17 MS. HOYT: What we're seeing is a
18 remilitarization in order to keep control. There are
19 certainly armed bands in Nicaragua, for example,
20 always with the threat that people could join them in
21 greater numbers, either demobilized contras or
22 Sandinista army people who never got the land that
23 they were promised when they demobilized.

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1 Remember the peace process of '89, '90, '91?
2 And so they felt that they were lied to so they are
3 armed. The level of poverty, I think, all over
4 Central America is such that there could be
5 insurrection at any point. Meanwhile, the United
6 States is making military agreements for bases.

7 There's a big base in El Salvador after the
8 southern command was moved out of Panama. The bases
9 had been located in different parts of Latin America.
10 El Salvador is one.

11 For the first time since the Samosa
12 dictatorship the United States sent direct military
13 aid to Nicaragua to the Nicaraguan army. Nicaraguan
14 army officers are now training at the School of the
15 Americas again for the first time since the Samosa
16 dictatorship.

17 So there is a remilitarization. There is
18 always U.S. military in Nicaragua with the New Horizon
19 Humanitarian training near the route of the proposed
20 trans-Ismian railroad so there is very definitely a
21 remilitarization going on. While there is not an
22 insurgency which is worrisome yet with the increased
23 poverty and the collapse of coffee, I think it's very

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1 possible that people could take up arms in greater
2 numbers again.

3 MR. FANTOZZI: Thank you.

4 CHAIRPERSON SURO-BREDIE: I think that's all
5 our questions. Thank you so very much.

6 Our next witness is Vincent McElhinny,
7 Program Manager, InterAction IDB-Civil Society
8 Initiative. I hope I pronounced your name correctly.

9 MR. McELHINNY: Very close.

10 CHAIRPERSON SURO-BREDIE: Perhaps you could
11 give us the real version.

12 MR. McELHINNY: Good afternoon. My name is
13 Vincent McElhinny. I'm the Program manager of the
14 InterAction IDB-Civil Society Initiative, whose focus
15 is advocacy on trade and integration issues through
16 our members working in Latin America.

17 I have lived and worked in El Salvador while
18 conducting my doctoral research and spent a
19 significant amount of time on frequent visits to
20 Central America over the past 12 years. I work with
21 some 60 InterAction members that have accumulated
22 decades of development experience in Central America.

23 My work at InterAction is to help provide

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1 our members and their civil society partners in
2 Central America with the knowledge and skills they
3 need to influence development policy and practice by
4 upholding the highest standards of transparency,
5 poverty reduction, social and environmental
6 sustainability and full participation by affected
7 populations, which happens to be the conditions on
8 which the Inter-American Development Bank received \$40
9 billion in 1994 as an aid for replenishment which we
10 feel are applicable to all development initiatives.
11 Hence, my comment today are concerned with how NAFTA
12 will uphold these principles.

13 InterAction is the largest membership
14 alliance of U.S.-based international development and
15 humanitarian nongovernmental organizations (NGOs) with
16 more than 160 members working in every developing
17 country. Interaction catalyzes, convenes, and
18 coordinates member organizations so that they can act
19 collectively and speak in a unified voice on issues of
20 common concern.

21 I've had the opportunity to speak with many
22 of our partners in the region about the impact that
23 trade liberalization has had on their lives and the

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1 proposed CAFTA negotiations. I appreciate this
2 opportunity to bring to you some of their concerns in
3 my comments today.

4 We recognize that the potential benefits of
5 trade can be an important engine for economic growth
6 and poverty reduction. However, only when trade is
7 built upon solid institutional foundations are these
8 benefits typically realized.

9 There is a widely shared frustration by many
10 working in Central America that these conditions may
11 be lacking. The region remains critically vulnerable
12 to recurrent economic and ecological shocks. After a
13 decade of post civil war and economic reforms that
14 have already lowered trade barriers, eliminated state
15 subsidies for many producers in the region, and
16 increased trade, it is noteworthy that many of the
17 development trends have failed to really uphold the
18 promise that have come with trade liberalization.

19 I list a number of economic and political
20 indicators that suggest that there is, at the very
21 least, much to be desired from the effects of economic
22 reforms to the extent where even democratic
23 institutions are losing what little legitimacy they

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1 have in some countries, and even in countries like
2 Costa Rica are slowly losing legitimacy because of the
3 lack of economic payoff.

4 I speak to you today to convey the concerns
5 of our partners in the region regarding the potential
6 impact of a proposed U.S.-Central American Free Trade
7 Agreement (henceforth CAFTA). Some of our concerns
8 are rooted in what has been learned from the impact of
9 the North American Free Trade Agreement (NAFTA) on
10 U.S., Canadian and Mexican citizens, as well as our
11 preliminary analysis of the Free Trade Agreement of
12 the Americas negotiating text.

13 While we appreciate the opportunity to raise
14 questions about the CAFTA negotiation process, the
15 lack of access to information relevant to CAFTA
16 process prohibits commentary on more substantive
17 aspects of the expected outcome of a trade agreement
18 between the U.S. and these five countries. I will
19 limit our comments to concerns about the process until
20 we have access to the negotiating text and can assess
21 the potential risks and opportunities of CAFTA.

22 We urge the USTR to make these types of
23 hearings more useful for all by providing for the

1 timely access to all relevant CAFTA documents - and
2 most importantly, to allow early access to the CAFTA
3 negotiating text. As well as having these types of
4 hearings in the region itself prior to the onset of
5 negotiations.

6 The concerns of our partners refer to the
7 assumed development opportunities of trade
8 liberalization, the exclusion of many sectors of civil
9 society from the trade negotiation process, the
10 institutional commitment to the conditions under which
11 trade could be a key part of a pro-poor development
12 strategy and the urgency with which a trade agreement
13 is expected. Let me say a few things about each of
14 these four points.

15 One, the U.S. trade agenda should be
16 grounded by more intensive investigation of the links
17 between trade liberalization and sustainable-equitable
18 development. Research on trade liberalization has
19 failed to persuasively demonstrate that countries that
20 trade more also achieve lower levels of poverty and
21 inequality. The evidence is at best mixed.

22 The case of Mexico is most instructive.
23 Export volume has tripled since NAFTA and economic

1 growth averaged a robust 6% between 1996-2000. But
2 research by the Inter-American Development Bank has
3 shown that the top 20% of the income strata captured
4 the investment benefits of NAFTA, while over 60% of
5 Mexicans remain trapped in poverty.

6 Many of the competitiveness and productivity
7 gains that NAFTA promised for Mexico have been slow in
8 coming. Clearly the trade-development relationship
9 depends upon other factors. Among them, good
10 government, low inequality, adequate human & physical
11 capital investment, substantive adjustment assistance.

12 To date, little is known about the possible
13 impact of CAFTA. Impact assessments on the employment
14 and poverty effects of CAFTA, disaggregated by gender
15 and sector, are necessary to clearly identify the
16 winners and losers from trade liberalization in
17 Central America. More shared analysis is especially
18 needed to stimulate informed debate about the more
19 objectionable aspects of NAFTA and the FTAA.

20 Our partners share the views of others in
21 terms of our concerns related to any investor-to-state
22 dispute procedures that inherently weaken local
23 regulatory authority; rules on trade in services that

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1 view public provision of health, education, water and
2 energy as barriers to trade; agricultural trade rules
3 which fail to address U.S. subsidies or the entry of
4 GMO foods; the relatively unsuccessful treatment of
5 labor and environmental related trade disputes through
6 side agreements; and the absence of trade rules
7 addressing obstacles to labor mobility or migration.

8 The second major issue I would like to touch
9 on is the fact that to date civil society
10 participation in the trade negotiation process has
11 largely been excluded. In order to make informed
12 decisions about the potential risks and opportunities
13 involved in the proposed CAFTA, it is essential that
14 all parties involved have as much information and
15 input into the negotiating process as possible.

16 The suggested impact assessments should be
17 made available to civil society in order to provide
18 for their informed input into the negotiation process.
19 Public hearings sponsored by a joint USTR and local
20 government team should be held regularly, not only in
21 Washington, but in each of the five Central American
22 countries prior to the beginning of negotiations, and
23 as a periodic mechanism to disclose information

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1 relevant to the negotiation process.

2 Our experience has suggested that reliable
3 and transparent mechanisms of information disclosure
4 are absent. InterAction views the establishment of a
5 Congressional Oversight Group as a useful mechanism
6 only to the extent that the USTR agrees to inform and
7 share documentation with these congressional advisors
8 in a timely fashion.

9 Our partners are concerned by the recent
10 refusal by the USTR to accept Rep. Baucus' petition to
11 have the COG attend the U.S. - Chile free trade
12 negotiations as observers and the lack of access
13 provided to the negotiating text in that particular
14 case. Seven years expired before the USTR shared the
15 FTAA negotiating text with civil society.

16 Clearly, the timely exchange of information
17 between governments and legislative or civil society
18 monitors of the negotiation process has not met the
19 expectations of the latter and must be improved. For
20 instance, our partners would like to know the
21 agricultural products that the U.S. has identified as
22 trade sensitive under CAFTA and into which the ITC is
23 in the process of conducting impact analyses.

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1 Point No. 3. We recognize that Central
2 American countries enter into CAFTA at a tremendous
3 disadvantage in terms of trade capacity in the areas
4 of negotiation participation and compliance, as well
5 as competitiveness and adjustment mechanisms. The
6 recent scaling up of trade capacity building
7 assistance (TCBA) by the U.S. Government and other
8 institutions is an important step toward diminishing
9 this gap. Still, trade capacity building assistance
10 addresses only a small part of Central America's
11 development needs and should not be seen as a panacea.

12 Our partners hope that this increase in TCBA
13 does not effectively crowd out comprehensive
14 development programs that prioritize increased
15 investment in education, health, credit and technology
16 transfer, particularly in rural areas.

17 My last point is why the rush? The
18 compressed one-year timeframe for negotiating CAFTA
19 provides very little time to achieve significant
20 improvements in the trade negotiation capacity of the
21 Central American advisors or to allow constructive
22 civil society participation. This rush to sign a
23 binding trade agreement reduces the chances of trade

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1 capacity building assistance having a major impact on
2 the outcome of the negotiations.

3 Given the scant solid analysis of the
4 potential impact of CAFTA, the need for more space for
5 civil society participation in the trade negotiation
6 process and the required investment in the adjustment
7 needs of those likely to be negatively affected by a
8 trade agreement, we question the urgency at which the
9 U.S. and Central American governments are expected to
10 sign CAFTA.

11 In sum, we raise these questions to
12 illustrate the concerns that civil society has
13 expressed both through attempts at constructive
14 engagement of their respective governments as well as
15 through increasingly conflictive protests when these
16 conventional efforts to participate are denied.
17 InterAction and its members will continue to monitor
18 this process in order to make informed decisions that
19 favor or oppose CAFTA in collaboration with our
20 Central American partners.

21 Thank you.

22 CHAIRPERSON SURO-BREDIE: Thank you. We
23 have a clarification from the ITC first on something

1 that you had said.

2 MR. LEAHY: Just a point on your comments on
3 the sensitive ag. products. In requesting the
4 investigation from us in the context of this
5 particular agreement and in several other earlier
6 requests, there is a list of products that is provided
7 by the USTR, so that information is publicly available
8 as to what products we are looking at. Were you aware
9 of that?

10 MR. McELHINNY: To some extent or another it
11 isn't necessarily clear to us what is and what isn't
12 on the list. We know that there's a deadline which
13 60 days prior to the onset of negotiations that list has
14 to be defined. We don't know all the products that
15 are on that list. More importantly we would like to
16 know to what extent --

17 MR. LEAHY: You would like to know the
18 answer.

19 MR. McELHINNY: To what extent even beyond
20 the answer that the information conducted in those
21 studies will be available.

22 MR. LEAHY: Right. That is another separate
23 issue that has been the negotiating dynamic because

1 they are in negotiations in all of these. The list
2 itself is pretty specific if you understand how the
3 tariff schedule is organized. If you have particular
4 questions on the list, I would be happy to help you at
5 a later date.

6 MR. McELHINNY: Okay. Thank you.

7 CHAIRPERSON SURO-BREDIE: Our time is short
8 so I will ask USTR and Treasury if they could ask one
9 question each, please. We'll start with the Treasury.

10 MS. SANMIGUEL: You say that firm
11 commitments to the full set of conditions for poverty
12 reducing fair trade are necessary. I was wondering if
13 you could clarify what this full set of conditions --

14 MR. McELHINNY: Well, in the parenthesis in,
15 I think, the second paragraph I have listed -- well,
16 when I talk about the case of Mexico, which I'll use
17 to make my example now, I include four or five things
18 that are general topics.

19 Let me just talk about the most intractable
20 one but probably the most important for Latin America
21 is low inequality as a condition. Whether that can be
22 achieved between now and the time an agreement is
23 signed is another issue. There is persuasive research

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1 by the IDB that it is, in fact, income and asset
2 inequality that ensures that whatever benefits get
3 produced from trade liberalization, increased volumes
4 of trade, diversification of trade, are captured by a
5 small percentage of the population who happen to be
6 well positioned to capture those benefits. That is
7 quite clearly an obstacle to trade being a pro-poor
8 development strategy.

9 In fact, it can be treated in a way that it
10 actually reinforces the obstacles to a pro-poor
11 development strategy should that condition exist, or
12 at least not be addressed. There are other conditions
13 I think are suggested in that sentence that I could
14 say more about.

15 MS. SANMIGUEL: That's okay. We're short on
16 time.

17 MR. FANTOZZI: We'll just pick up on that
18 question. To what extent can these issues, especially
19 the one that you just mentioned about equality, be
20 addressed by the CAFTA? To what extent are they
21 basically domestic issues that have to be resolved?

22 MR. McELHINNY: I think other speakers have
23 made the point but I would just reiterate that to

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1 think of things as exclusively domestic or
2 international issues is almost becoming impossible.

3 They are large dynamic in the relationship
4 that non-Central American actors have in terms of
5 influence and the political will or the absence of
6 political will that exist among Central American
7 governments to enact certain reforms.

8 Tax reform has been a plank of the
9 Washington consensus since its initiation. It's never
10 been fulfilled in Latin America but no one has ever
11 held the government's feet to the fire for that
12 reason. That hasn't been one of the criteria on which
13 renewed lending has been obstructed. Whether CAFTA
14 can change this is certainly subject to studies that
15 have to suggest that with a fairly sober and empirical
16 presentation.

17 That certainly is, I guess, my point about
18 the fact that we lack real solid evidence that suggest
19 that under the real conditions that Latin America --
20 Central America is entering into this agreement that
21 an agreement like CAFTA could ultimately be poverty
22 reducing.

23 I would suggest, I guess, that my first stab

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1 at figuring out how this might help, and an area in
2 which there might be agreement between civil society
3 and the USTR in this case, is that there are
4 monopolies within domestic governments to prevent
5 distribution of benefits from trickling down to
6 everyone.

7 The rural sector that was referred to by
8 Cher, you can point to case after case after case
9 where the domestic productive chain is controlled by
10 one, two, or three individuals at different subsectors
11 of agriculture and industry in the same way. To the
12 extent that CAFTA can undo those monopolies,
13 oligopolies by subjecting them to foreign competition
14 or competition within the country, I think that is one
15 step to ultimately resolving the obstacles that
16 prevent trade from being poverty producing.

17 That said, I don't think anyone who has
18 testified in the last five to 10 minutes is holding
19 their breath thinking that this is actually going to
20 be enough of incentive in the short time frame that
21 CAFTA is scheduled to be negotiated that that actually
22 is going to happen. We are very, actually, concerned
23 that these, in fact, are the people who are going to

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1 have the most to gain from such a trade agreement.

2 CHAIRPERSON SURO-BREDIE: Thank you very
3 much.

4 Our next witness is Melinda St. Louis.
5 Could I remind the witnesses that we are trying to
6 hold you to five minutes. It's hard for me to
7 interrupt you when you have a very long and intricate
8 presentation but, unfortunately, we are now making
9 others that were called to testify wait over 30
10 minutes so if you could hold your testimony to the
11 five minutes, it would be very much appreciated.
12 Thank you. Sorry to put this burden on you
13 particularly. It applies to everyone. Thank you.

14 MS. ST. LOUIS: Thank you again for the
15 opportunity to address you today. My name is Melinda
16 St. Louis and I'm the Advocacy and Campaigns
17 Coordinator for Witness for Peace.

18 Witness for Peace is a grassroots U.S.
19 policy advocacy organization with a permanent presence
20 in Nicaragua, Mexico, and Colombia. For 20 years we
21 have supported peace, justice, and sustainable
22 economies in the Americas by educating U.S. citizens
23 about the effects of U.S. policy in Latin America and

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1 advocating for policy based on respect for human
2 dignity.

3 We have taken more than 10,000 U.S. citizens
4 to Latin America, the majority of these to Nicaragua,
5 to witness for themselves the effects of U.S. policy.
6 I address to you today to voice strong opposition to
7 the U.S. Central America Free Trade Agreement, CAFTA,
8 as a representative of this organization that has
9 monitored the effects of the NAFTA in Mexico and has
10 maintained a 20-year presence in Nicaragua.

11 Our permanent presence in Mexico has allowed
12 us to develop deep relationships with civil society
13 groups who represent the poor. What we have heard has
14 been overwhelming rejection of the NAFTA model.

15 In the year since NAFTA, total agricultural
16 production has been cut in half resulting in
17 disastrous consequences for Mexican farmers and their
18 families. On the urban side the minimum wage in
19 Mexico fell nearly 25 percent from 1994 to 1999.

20 If the Mexican working people have fared so
21 poorly under NAFTA, we are concerned how can
22 Nicaragua, an economy less than 1/200th the size of
23 Mexico, even dream of competing under a similar model.

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1 I wish to share with you three specific
2 concerns about the CAFTA that we have heard time and
3 again from our Nicaraguan partners. The first is the
4 devastating impact on small farmers with further
5 rejection and barriers to trade for agricultural
6 products. The second is food and security from
7 continued promotion of an export oriented agricultural
8 model. The third is further deterioration of worker's
9 wages and rights.

10 The agricultural provisions of the CAFTA are
11 extremely worrisome to our rural Nicaraguan partners.
12 Nicaragua is a country based on agriculture but the
13 lack of electricity, technical and financial
14 assistance, and the high cost of inputs means that
15 Nicaraguan small farmers simply cannot compete with
16 cheap U.S. products.

17 Our partners see the fact that the U.S.
18 intends to continue to protect it's own agriculture
19 through subsidies when Nicaraguan farmers cannot even
20 receive credit to plant their crops as a great double
21 standard that threatens the livelihoods of thousands
22 of rural families.

23 Nicaragua has difficulty competing even with

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1 neighboring El Salvador and Costa Rica, much less the
2 United States. Cheap imports will mean that even more
3 Nicaraguan farmers will lose their land and will be
4 forced to migrate to the cities, Costa Rica, or to the
5 United States. Unfortunately, we are concerned that
6 with CAFTA Nicaragua's most profitable export may be
7 its people.

8 Nicaragua struggles to feed its own people
9 and increased dependency on export crops like coffee
10 threatens the country's already precarious food
11 security. The people who live and work in Nicaragua's
12 fertile coffee-growing region suffered widespread
13 famine this year as international coffee prices
14 plummeted to a 30-year low.

15 Thousands of people who make their
16 livelihoods picking coffee camped out in city parks
17 and roads begging for food for their starving children
18 while the coffee beans rotted on the trees.

19 A tiny economy like Nicaragua simply cannot
20 influence prices on the world market and, therefore,
21 is subject to the whims of consumers in rich
22 countries. A trade model which encourages food
23 imports and cash crop exports is asking for increased

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1 food insecurity.

2 A third deep concern from our partners is
3 that of deteriorating working conditions. The CAFTA
4 would inevitably encourage more maquilas to locate in
5 Nicaragua. In a country with up to 60 percent and
6 under unemployment, few people would argue against
7 bringing more employment to the country. But the
8 question for the 40,000 people, mostly women who
9 currently labor in Nicaragua's maquilas, is what types
10 of jobs are we talking about.

11 One union organizer told Witness for Peace,
12 "We are not against investment but we are against
13 investment which exploits us and does not treat us as
14 human beings." We know from our relationships in
15 Mexico that since the NAFTA was instituted in Mexico
16 in 1994 independent workers' organizations in the
17 maquila doras have had an increasingly difficult time
18 in advocating for workers' rights. The labor side
19 agreement of the NAFTA has not resulted in any real
20 protection for the right to organize.

21 In Nicaragua union repression by foreign
22 investors is common place and in direct violation with
23 Nicaragua's labor code. The Nicaraguan government in

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1 an attempt to appease foreign investors often cannot
2 enforce its own labor laws.

3 Including language in a trade agreement
4 about "appropriate commitments" to labor standards or
5 striving not to weaken labor standards is not enough
6 for Nicaraguan maquila workers. The right to organize
7 independent unions and negotiate fair contracts must
8 be strictly enforced by any trade agreement.

9 On behalf of our rural and urban civil
10 society partners in Nicaragua and based on the life
11 and death concerns of food security and workers'
12 rights, we reject the CAFTA as it is being envisioned.

13 Due to an unsustainable debt burden and its
14 dependency on international financial institutions, a
15 poor country like Nicaragua has no leverage in the
16 trade negotiations process. We fear that
17 transnational corporations will take advantage of this
18 weakness to the detriment of the Nicaraguan people.

19 As U.S. citizens who stand in solidarity
20 with the people of Mexico and Nicaragua, Witness for
21 Peace demands that our trade relationships allow poor
22 countries like Nicaragua to truly develop for the
23 benefit of their own citizens, not develop to become

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1 a dumping ground for U.S. products and corporate
2 interest. Our nationwide grassroots network will
3 continue to pressure our policymakers for more just
4 trade policies.

5 Thank you very much.

6 CHAIRPERSON SURO-BREDIE: Thank you very
7 much, Ms. St. Louis.

8 Our first question will be by the Department
9 of Labor, please.

10 MS. WHITE: Thank you. I'm interested in
11 your statement about the concern for deteriorating
12 working conditions. I note that you call for the
13 right to organize independent unions and negotiate
14 fair contracts must be strictly enforced by any trade
15 agreement.

16 Do you have any ideas how this might be?
17 Our trade promotion authority actually calls for us to
18 seek commitments that a country will enforce its labor
19 laws. So to the extent it has labor laws on the right
20 to organize and bargain collectively, these would be
21 covered. Is this the kind of thing that would address
22 your concerns or did you have other sorts of
23 mechanisms in mind that we could do to take care of

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1 this problem?

2 MS. ST. LOUIS: I think there are two
3 issues. The first thing is that under the Caribbean
4 Basin Trade Partnership Act also there are supposedly
5 mechanisms to ensure that Nicaragua is enforcing its
6 labor laws. However, in the past years there has been
7 -- since the year 2000 there has been increased union
8 repression in Nicaragua.

9 A very high-profile case of GENTEX which was
10 a Taiwanese company actually made it to the USTR desk
11 and actually wrote a letter about that. However,
12 despite the fact that this continued to happen, that
13 did not affect the trade relationship under the
14 Caribbean Basin Trade Partnership Act.

15 These are the concerns that we have that
16 though there is language, there is lip service being
17 paid to these things, when it actually comes down to
18 it, we have not seen it. And with the NAFTA we also
19 have not seen that they actually ensure that these
20 labor laws are complied with.

21 In addition, I think, for instance, in
22 Nicaragua the minimum wage for a maquila worker is \$65
23 a month. It takes \$200 a month at least to feed a

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1 family of four in Nicaragua. What do you do in that
2 situation where you say, "Okay. Perhaps they are
3 paying the minimum wage so we're not going to do
4 anything about this."

5 In fact, it is not a livable wage at all.
6 People simply cannot survive making a wage that they
7 make in the free trade zone. These are some of the
8 concerns that we have. I think if there were real
9 mechanisms to do that, I think the first step would be
10 taking language that's stronger than saying we ask for
11 commitments.

12 There needs to be teeth to these commitments
13 and not to be relegated to a side agreement that
14 basically has a research role but doesn't have any
15 punitive mechanisms.

16 CHAIRPERSON SURO-BREDIE: Thank you.

17 Our next question is from the State
18 Department.

19 MS. ROE: I think that was pretty much
20 covered by your answer. If you have any more thoughts
21 about any assistance that could be provided to build
22 capacities and make it more feasible, that enforcement
23 of labor rights and labor laws be implemented, please

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1 let us know.

2 MS. ST. LOUIS: I also think that there is
3 an unfortunate disconnect that happens within the
4 Nicaraguan government. Often within the ministry of
5 labor there is will to try to enforce Nicaragua's
6 labor laws.

7 But, on the other hand, there is the side of
8 the government that is being pushed to attract foreign
9 investment which is going to be part of the Central
10 America Free Trade Agreement which basically
11 encourages a different times to look the other way
12 because we don't want to discourage these companies to
13 continue to come to Nicaragua.

14 Therefore, on one hand we have decent labor
15 laws but we can't enforce them because we need to be
16 attracting these companies. I think that is a
17 disconnect that I personally do not see how that can
18 be reconciled with in the CAFTA framework. As we hear
19 more from your Nicaraguan partners, I'll definitely
20 pass that along.

21 CHAIRPERSON SURO-BREDIE: And our last
22 question from Treasury.

23 MS. SANMIGUEL: In your testimony you talk

1 about specifically Mexico and NAFTA. You reference
2 the period 1994 to 1999. Just looking at World Bank
3 statistics for the period '97, the 10th debt crisis in
4 Mexico, through 2001, per capital GDP has increased.
5 Services sector has increased by nearly 20 percent.
6 I'm wondering if you could just elaborate further on
7 your point of view on that relative to -- effects that
8 might have relative to that first Central America.

9 MS. ST. LOUIS: I think when you look at the
10 per capita GPD for one thing, it is true that there
11 was a robust growth during that period. But when you
12 look at real wages, especially in the industrial
13 sector, which is where most of the growth happened in
14 the maquila doras, the people who work in those
15 maquila doras we have many contacts with women and we
16 take delegations of U.S. citizens to live in homes
17 with maquila workers for a few days and they see for
18 themselves the living conditions.

19 These are people who work 12 or 14 hours a
20 day and sometimes work up to 24-hour shifts. They
21 literally don't have enough to live on. It's one
22 thing when you look at growth, but, again, where does
23 that growth go? I think that the maquila industry

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1 provides jobs but it provides jobs based on
2 desperation.

3 That's desperation that has been put in
4 place by some of the things we heard about in the
5 rural sector. When rural compacinos can't compete
6 with foreign imports, they lose their land so they are
7 unemployed so they are willing to work for literally
8 nothing. That's what these maquilas then are
9 exploiting that desperation and that we are saying
10 this is not a model that we think really -- that I
11 feel comfortable being a part of as a U.S. citizen.

12 CHAIRPERSON SURO-BREDIE: Thank you very
13 much.

14 Our next witness is Jeffrey Vogt, Assistant
15 General Counsel, International Labor Rights Fund.

16 MR. VOGT: Thank you for providing me the
17 opportunity to testify today. My name is Jeff Vogt,
18 the Assistant General Counsel for the International
19 Labor Rights Fund.

20 The International Labor Rights Fund has been
21 working on International Labor Rights issues since the
22 mid-80s when the founders of the organization
23 successfully pushed through the labor rights

1 conditionality clause in the generalized system of
2 preferences and was then formed to monitor the
3 implementation of the workers' right clause in the
4 generalized system of preferences. We have since then
5 expanded our mandate to look at laborized conditions
6 around the world.

7 The International Labor Rights Fund
8 institutionally is concerned about the ongoing labor
9 rights violations in Central America which are well
10 documented by international, national, trade unions,
11 and also very apparent in the documents produced by
12 the U.S. State Department's annual review of human
13 rights and labor rights.

14 We feel that the current economic model is
15 forcing developing countries to compete against one
16 another to attract investment by offering the lowest
17 wages and foregoing enforcement of their own labor and
18 environmental laws which often are actually quite
19 good. The incentive not to enforce them is quite
20 high.

21 This competition we feel is the greatest
22 barrier to the enforcement of the labor laws as
23 countries legitimately fear that the multinationals

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1 will move to the country offering the greatest freedom
2 to operate with impunity from the enforcement of
3 national labor laws.

4 We believe that to solve this problem the
5 Central American Free Trade Agreement must include a
6 clause that would incorporate substantive labor
7 standards and an enforcement mechanism that would
8 encourage local enforcement but provide remedies in
9 the case of systematic noncompliance of labor
10 standards.

11 As we have learned from past experience,
12 which has been expressed by other speakers here today,
13 that unless special mechanisms exist to enforce
14 international labor rights standards, the current
15 violations of these fundamental labor standards will
16 continue undebated.

17 In the testimony I submitted, I go through
18 each of the five CAFTA eligible countries and give a
19 brief summary of some of the greatest problems. I can
20 review those briefly without reading the entire
21 statement to you.

22 Recently a petition was filed on Costa Rica
23 to the U.S. Trade Representative specifically on the

1 issue of solidarity associations which has undercut
2 workers' freedom of association dramatically in Costa
3 Rica.

4 Solidarity associations are similar to the
5 organizations that are banned in the United States
6 under 8(a)(2) of the National Labor Relations Act and
7 are essentially company unions with no ability to
8 bargain or adequately represent its members. These
9 models that are promoted by employers to fundamentally
10 undercut the right or ability of legitimate trade
11 unions to form and exist in Costa Rica.

12 In addition to these issues, Right to Strike
13 is excessively restricted in the past 50 years. Only
14 two strikes have been declared legal in Costa Rica.
15 Pursuant to a report by the International Labor
16 Organization in 2001 they also confirm that it is
17 almost impossible to carry out legal and legitimate
18 strikes in Costa Rica.

19 Moreover, the judicial process in Costa Rica
20 is extremely slow and effective. In a little over 70
21 percent of the cases dealing with unjust dismissal
22 took longer than the maximum amount of time permitted
23 under Costa Rican law.

1 Similar problems exist in El Salvador where
2 freedom of association is not adequately produced.
3 Although it does exist in the constitution, it is not
4 observed in practice. Additionally the ILOs reported
5 frequent dismissal of labor activists by employers and
6 the use of blacklists to deny future employment to
7 those dismissed workers. This exist not only in the
8 free trade zones but in other sectors in the El
9 Salvadoran economy as well.

10 In addition, child labor even in its worst
11 forms exist as a problem in El Salvador with children
12 working in dangerous activities and agriculture and
13 producing things such as fireworks.

14 Moving on to Guatemala, employers in the
15 maquila sector in Guatemala have frequently used
16 intimidation, mass dismissals and plainclothes to
17 discourage unionization. In a recent 2002 Human
18 Rights Watch study of the maquila sector found
19 widespread sex discrimination, pregnancy testing,
20 illegal dismissal of pregnant workers, and a failure
21 to enforcements or any productions.

22 Additionally, as was mentioned in earlier
23 GSP petitions, there was an issue with the banana

1 workers in Morales who were represented by Sutrabi.
2 The leaders of that union were forcibly removed by a
3 mob in Morales in which the current mayor of Morales
4 was involved.

5 Those leaders are now living in exile in the
6 United States and violence against the workers who
7 formerly worked for Del Monte continues. Indeed, many
8 of the former workers of Del Monte have become
9 subsistence farmers and continue to be threatened by
10 armed thugs and paramilitaries in the area.

11 Again, in Honduras similar problems exist
12 vis-a-vis child labor and rights to organize and
13 bargain collectively.

14 Not to short Honduras but to move on to
15 Nicaragua and try to stay within five minutes.
16 Nicaragua is also experiencing incredible hostility
17 towards workers' rights in the export processing
18 zones. Recent studies have shown that there is
19 noncompliance with pay for overtime, lost benefits,
20 and health and safety. Violations are rampant in the
21 maquila sector.

22 It is our testimony then until these issues
23 are adequately addressed, and they are obviously not

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1 being addressed adequately now under the laws and
2 mechanisms that we have, that if we really want to see
3 economic growth in Central America without greater
4 disparities in income and working conditions, that we
5 feel that the Central American Free Trade Agreement
6 must take into account these issues and provide
7 adequate mechanisms to enforce labor standards.

8 Thank you.

9 CHAIRPERSON SURO-BREDIE: Thank you very
10 much.

11 First question is from the State Department.

12 MS. ROE: Thank you. We hear very clearly
13 your suggestion, your proposal that the U.S. CAFTA
14 include an enforceable labor rights clause. The trade
15 promotion authority does establish as a negotiating
16 objective that there be a provision that permits
17 countries to enforce their own labor laws which you
18 have noted are usually on the books tend to be rather
19 well developed.

20 Would the strict adherence to such a
21 provision go a good ways towards addressing your
22 concern and how do you see that coming about?

23 MR. VOGT: I think there are two ways. One,

1 I think there has to be some mechanism to build
2 capacity within Central America to enforce domestic
3 labor laws which we believe would be the preferable
4 way to go about building labor rights compliance.

5 In the time I've spent in Central America
6 and the research I've done demonstrates there are
7 significant barriers. First, governments simply in
8 most cases do not have adequate resources to fully
9 fund a functioning judicial system so that is
10 something that needs to be addressed.

11 There needs to be more -- in the case of
12 Guatemala there is a plan to develop specific labor
13 courts throughout Guatemala. As far as I know only
14 one is the eight that were planned to be generated out
15 of that project is functioning at this point.

16 Also in some instances widespread corruption
17 is preventing the adequate enforcement of labor
18 standards. While we would push for strict enforcement
19 of domestic labor standards, we also feel it would be
20 necessary to the extent that you have a systematic
21 violation of labor rights standards.

22 That there be some mechanism, super national
23 mechanism similar to U.S.-Jordan Free Trade Agreement.

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1 Something not merely state to state but something that
2 civil society or labor could also invoke to pressure
3 their own governments and the signatories of the CAFTA
4 to deal with international labor rights violations.

5 MR. CLATANOFF: You used the term
6 enforceable workers' right clause. The problem I
7 have, and you are well aware of this GSP, if you take
8 a situation like Nicaragua where I think anybody who
9 looks at it reasonably will realize that most of the
10 workers in the export processing zones have their
11 freedom association curtailed one way or bridged in
12 one way or the other.

13 Yet, sort of the remedy that is available to
14 GSP would be to say, "Okay, we'll cut off the exports
15 from those export processing zones." The workers will
16 no longer have to worry about their freedom of
17 association since they won't have a job. Can you give
18 us a better way to do that?

19 MR. VOGT: Well, there is actually in regard
20 to the free trade area of the Americas there has been
21 circulated a draft of kind of a proposal to the FDA
22 which I can attach to my written comments which I will
23 submit in December that lays out a well-developed plan

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1 on each of the issues, the major negotiating issues.
2 It is a thorny issue, and I think again putting
3 resources towards capacity building in each of the
4 Central American countries would be a necessary step.

5 Also, talking with unions and organizations
6 in Central America, the idea of having not so blended
7 an instrument is it completes on or off of some
8 countries trade preferences but to be more sector or
9 enterprise specific where a particular enterprise, for
10 example, is violating a particular labor standard more
11 than another. You could be more targeted in your
12 approach.

13 CHAIRPERSON SURO-BREDIE: Department of
14 Labor, do you have a question?

15 MS. WHITE: No.

16 CHAIRPERSON SURO-BREDIE: Thank you.

17 The next witness is Maddi Azpriez, Workers'
18 Rights Program, Lawyers Committee for Human Rights.

19 I'm certain I didn't pronounce your name
20 right. Perhaps you could say it for the record.

21 MS. AZPRIOZ: Sorry?

22 CHAIRPERSON SURO-BREDIE: Could you say your
23 name for the record? I'm sure I didn't have it right.

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1 MS. AZPRIOZ: Thank you for the opportunity
2 to testify today. My name is Maddi Azpriez and I'm
3 here to testify on behalf of the Lawyers Committee for
4 Human Rights.

5 Since 1978 the Lawyers Committee has worked
6 in the United States and abroad to create a secure
7 humane world by advancing justice, human dignity, and
8 respect for the rule of law.

9 We support human rights activists who fight
10 for basic freedoms and peaceful change at the local
11 level, protect refugees in flight from persecution and
12 repression, promote fair economic practices by
13 creating safeguards for workers' rights, and help
14 build a strong international system of justice and
15 accountability for the worst human rights crimes.

16 The Lawyers Committee advances fair economic
17 practices by promoting global safeguards for worker's
18 rights. We believe that increased trade
19 liberalization must be accompanied by measures to
20 protect basic labor rights. The expressed protection
21 of labor rights in the letter on this period of trade
22 agreements is the first step in this direction. Labor
23 rights must not only be covered by the CAFTA but be at

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1 its core in a firm subject to monetary adversement.

2 The CAFTA represents a new opportunity for
3 the United States and the Central American region to
4 raise labor standards and provide effective protection
5 to labor rights.

6 Moreover, such an agreement would create a
7 precedent among the countries of the western
8 hemisphere for the drafting of enforceable regional
9 labor standards in the context of the ongoing
10 negotiations of the FTAA. The Lawyers Committee
11 believes that more needs to be done both in law and
12 practice to ensure that current labor rights are
13 respected.

14 In the written statement we provide more
15 details about our recommendations. Basically the
16 Lawyers Committee urged the United States to take into
17 account the following recommendations when drafting
18 the text of the agreement.

19 Negotiations must be conducted in a
20 transparent way. Only governments that comply with
21 current labor standards should be invited to sign.
22 Basic labor rights must be an integral part of the
23 agreement. Enforcement mechanisms for labor rights

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1 must be equal to enforcement mechanisms for any of the
2 rights and obligations in the agreement.

3 Trade remedies should be applicable to labor
4 standards. Labor rights must be enforceable in the
5 entire territories of the signatory parties. A
6 permanent labor standard monetary must be part of the
7 agreement.

8 In all of the countries covered by CAFTA
9 there is ample evidence of labor rights abuses
10 suffered by workers who are working in export or
11 economic production, both industrial and agriculture,
12 in sectors suspected to benefit from increased
13 liberalization in the region.

14 In El Salvador and Guatemala, Honduras and
15 Nicaragua, especially in the maquilas, there are
16 severe restrictions and freedom of association and
17 abuses including child labor, underpaid for excesses
18 of time worked below legal minimum legal requirements
19 and other safety standards.

20 An estimated 80 percent or more of the
21 workers in this sector are women. Many of them suffer
22 sexual discrimination including pregnancy testing and
23 firing of pregnant workers.

1 In most of the factories in the maquilas
2 there are no unions as a direct result of anti-union
3 policies and practices within the enterprises
4 including threatening workers with this missile and
5 the use of blacklists. In Costa Rica there is the
6 problem of the persistence of child labor in banana
7 plantations.

8 The Lawyers Committee is particularly
9 concerned about very serious abuses of worker's rights
10 in Guatemala where we have been closely monitoring
11 human rights violations for many years. We urge the
12 United States to carefully assess the labor rights
13 situations in the region on a country-by-country basis
14 before signing the CAFTA.

15 To sum up, I would like to stress the legal
16 and practical protection for worker's rights in
17 Central America must be strengthened. The Lawyers
18 Committee believes that increased international trade
19 should not come at the expense of the rights of the
20 workers. Countries should not lower their labor
21 standards to attract increased investment in trade and
22 protection for workers should be in the core of a full
23 trade agreement.

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1 Negotiations in the CAFTA provide an
2 opportunity for the United States to express its clear
3 support for international labor standards and human
4 rights. Thank you.

5 CHAIRPERSON SURO-BREDIE: Thank you very
6 much. Our first question will be the Department of
7 Labor.

8 MS. WHITE: Thank you. I note that you keep
9 referring to core labor standards and labor rights and
10 applicable labor standards. When you speak of these,
11 do you have a particular set in mind? For example,
12 those that are in our TPA and our GSP or are there
13 other standards?

14 MS. AZPRIOZ: Yes. We refer to the core
15 labor standards and we give a list of them in the
16 written statement. We basically refer to -- I can
17 refer you to footnote 4 where we say what we
18 understand by core labor standards which includes
19 freedom of association, the right to organize and
20 bargain collectively, the use of any kind of force or
21 compensatory labor, effective elimination of child
22 labor and elimination of discrimination with respect
23 to employment and occupation. These are based on the

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1 declaration and its follow-up.

2 MS. WHITE: So those are slightly different
3 than the core labor standards and our trade promotion
4 authority in the internationally recognized human
5 rights in the GSP.

6 MS. AZPRIOZ: Yes. I believe that the TPA
7 is also based in the declaration and its follow-up.

8 MS. WHITE: I think the GSP labor standards
9 are the same as those that are in the TPA which are
10 the same with respect to freedom of association and
11 right to organize collectively and elimination of
12 prohibition on forced labor.

13 The child labor one, I think, is stronger
14 because it calls for complete elimination. The
15 standards in the TPA are just minimum age, I believe,
16 for child labor. And then acceptable conditions with
17 respect to wages and hours. There is no
18 discrimination provision in the TPA.

19 MS. AZPRIOZ: We have included that in ours.
20 Then we referred to basic labor standards on page
21 number 7 where we gave a complete list of what we
22 understand the basic labor is which are more than the
23 core labor standards.

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1 MS. WHITE: Thank you.

2 CHAIRPERSON SURO-BREDIE: Did you by chance
3 bring extra copies of your testimony?

4 MS. AZPRIOZ: Yes, I have 25 of them but I
5 have more if you need additional ones.

6 CHAIRPERSON SURO-BREDIE: Thank you.

7 MS. AZPRIOZ: I will also submit an
8 electronic version.

9 CHAIRPERSON SURO-BREDIE: Thank you.

10 Does the State Department have some
11 questions?

12 MS. ROE: Could you elaborate on what you
13 mean specifically when you say that labor rights
14 should be enforceable in the entire territories, the
15 signatory countries. Did you mean, for example, that
16 there should be full enforcement in the economic
17 processing zones?

18 Did you also refer to anything of a
19 transboundary nature? For example, the ability of
20 companies to go across borders and perhaps not be
21 available for the enforcement powers of the country
22 where they had their plant? Or were you only
23 referring to the first I mentioned?

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1 MS. AZPRIOZ: We refer to what we call in
2 Spanish (speaks in Spanish) which are economic songs
3 that are created to attract investment. That's where
4 the maquilas are. These are managed privately which
5 causes the problem of enforcement of labor violations.
6 When you notice the maquilas problems, many times
7 simply the management is not accountable for their
8 actions.

9 CHAIRPERSON SURO-BREDIE: Any other
10 questions?

11 MR. CLATANOFF: Your testimony talks about
12 a permanent monitoring body. How do you see that?
13 How would you like to see that structured or how would
14 it operate?

15 MS. AZPRIOZ: I wouldn't be able to give a
16 detailed explanation of what I understand by that, but
17 you could probably rely on ILO money trading
18 experiences. We believe it's important on top of the
19 enforcement to have money trading mechanisms to create
20 the capacity in the region. It would be a good way to
21 assist the countries.

22 CHAIRPERSON SURO-BREDIE: Thank you very
23 much.

1 Our next witness is Thea Lee, Assistant
2 Director of International Division of the AFL/CIO.
3 Welcome.

4 MS. LEE: Good afternoon. I appreciate this
5 opportunity to offer comments on the proposed Free
6 Trade Agreement with Central America, on behalf of the
7 thirteen million members of the AFL-CIO. We welcome
8 closer economic ties with Central America, but we are
9 deeply concerned that the standard Free Trade
10 Agreement model will not work for working families in
11 Central America and United States.

12 The countries of Central America - Costa
13 Rica, El Salvador, Guatemala, Honduras, and Nicaragua,
14 face many obstacles to achieving robust, stable
15 development: high rates of poverty and inequality,
16 unsustainable debt burdens, declining terms of trade
17 for many of their products on world markets, and
18 fragile democratic structures that are still grappling
19 with the legacy of decades of political violence. Any
20 trade agreement with the region must recognize and
21 address these challenges.

22 We are working closely with trade unions in
23 Central America to develop proposals for an

1 integration model based on a foundation of strong
2 domestic institutions, including independent,
3 democratic trade unions and states with the capacity
4 to regulate employers and protect workers' rights.

5 Our proposals recognize the United States'
6 own responsibility to contribute to the long-term
7 social, political, and economic development of the
8 region, and to work with the governments of Central
9 America to find common solutions to some of our common
10 problems, such as crushing external debt burdens and
11 the rising pressures on immigrant workers.

12 Simply expanding market access and freeing
13 capital will not stimulate real development in Central
14 America. Increased trade with the region must be
15 accompanied by improvements in workers' rights,
16 measures for debt reduction, a just immigration
17 policy, and commercial rules that safeguard the public
18 interest, not just private profits.

19 Any trade agreement that falls short of
20 these proposals will be a failure for Central America
21 and a failure for American workers, and we will work
22 with our allies across the region to oppose it.

23 Workers' Rights in Central America

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1 Workers in Central America have too often been
2 excluded from the benefits of increased trade in the
3 region, as they continue to struggle to have their
4 basic human rights respected in the work place.

5 Repeated and systematic violations of
6 workers' rights retards the development of Central
7 American countries, and drags down standards for
8 American workers who are thrown into a vicious race to
9 the bottom with their fellow workers in the region.

10 Not one Central American country included in
11 the proposed CAFTA comes close to meeting a minimum
12 threshold of respect for the ILO's core labor
13 standards: freedom of association, the right to
14 organize and bargain collectively, and freedom from
15 child labor, forced labor, and discrimination.

16 While the labor movement has been able to
17 pressure Central American governments to improve labor
18 rights with some positive results in a few cases,
19 there are hundreds more where governments have stood
20 by while labor rights are violated, or have themselves
21 been the violators. There has been no significant
22 improvement in any of the areas discussed in the
23 AFL-CIO's July 17, 2000 comments on the CBTPA

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1 eligibility.

2 Some of the most troubling cases of
3 continued workers' rights violations in the region are
4 detailed in my written testimony, which I will submit
5 for the record. I have brought copies, too. I'm
6 sorry for being a little bit tardy with my comments.

7 I wanted to just go over sort of the basic
8 highlights and not go over the individual cases right
9 now but we can take questions on that if you are
10 interested. Certainly we believe that in all the
11 Central American countries we have problems both in
12 law, the labor laws themselves as well as the
13 enforcement of those laws.

14 As you know, we submitted GSP cases on
15 several countries, Costa Rica, Guatemala, Honduras.
16 Given the continued severe violations of workers'
17 rights in Central America, it's very troubling to ask
18 that the administration's proposal, in our view,
19 actually represents a step backward from the kind of
20 protections that we already have now in the GSP
21 program and the CBTPA.

22 We are very concerned that if we actually
23 weaken the workers' rights leverage that we have

1 currently in current trade agreements in this very
2 troubled region where there are significant workers'
3 rights violations that we will be losing a very
4 important piece of leverage.

5 We are concerned that the way the
6 administration is reading the TPA bill that they are
7 looking to a very narrow interpretation of what TPA
8 tells us with respect to workers' rights. And that,
9 in fact, the only enforceable provision that they are
10 looking towards is a commitment to enforce domestic
11 labor laws.

12 In the context of Central America we think
13 this would be disastrous because we would completely
14 give up any leverage to improve the labor laws in the
15 Central American countries in the context of our trade
16 relationships.

17 It is clear that even the United States has
18 long recognized that Central America's labor laws are
19 not up to international standards. If we have only an
20 obligation to enforce existing laws, this will not
21 provide sufficient guarantee that core workers' rights
22 are actually respected in the region.

23 The labor provisions of the Central America

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1 FTA must be stronger than those in the Jordan
2 Agreement and much stronger than what we've seen so
3 far put on the table in the context of Singapore and
4 Chile.

5 The Jordan FTA's labor provisions were
6 acceptable for Jordan because Jordan's labor laws more
7 or less substantially meet ILO's standards. These
8 same provisions would be woefully inadequate in the
9 Central American context and in any other context
10 where labor laws fall far below ILO norms.

11 The Central American governments must reform
12 their labor laws to meet international standards and
13 continued compliance with these standards and
14 effective implementation of domestic laws must be
15 enforceable obligations in any regional trade
16 agreement with Central America.

17 It is certainly essential that any kind of
18 dispute settlement enforcement mechanisms be the same
19 for the commercial obligations in the labor and
20 environmental provisions of the agreement. We always
21 want to see labor and environmental provisions in the
22 core of the agreement, not in the side agreement.

23 To the extent that the agreement outlines

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1 precise procedures to strengthen enforcement in other
2 areas such as intellectual property rights protection,
3 it ought to do the same for enforcement of labor and
4 environmental measures.

5 A monetary enforcement mechanism must
6 contain strong rules to ensure that fines are large
7 enough to deter violations and any fines spent to
8 remedy enforcement problems must truly fulfill that
9 goal.

10 At the end of the day fines do not fully
11 remedy workers' rights violations or are not paid.
12 They must be resorted to trade sanctions to enforce
13 the labor provisions of the agreement.

14 Just briefly on the question of immigration,
15 the immigrant workers from Central America make
16 important contributions, of course, to the U.S.
17 economy, to their communities, and to their work
18 places. many of these workers are vital and active
19 members of our American labor movement. Yet, these
20 workers face routine violations of their rights to
21 organize here in the U.S.

22 The Supreme Court's Hoffman Plastics
23 decision is just the most recent example of how

1 immigrant workers' legal status is used to deny them
2 their basic rights in the work place. The AFL-CIO
3 supports a legalization program for immigrant workers
4 that is based on the creation of permanent legal
5 status, full protection for workers' labor right, and
6 vigorous enforcement of labor laws.

7 We are concerned about the kinds of
8 temporary entry provisions that are being proposed in
9 the context of Chile and Singapore, temporary entry
10 for professional workers that would essentially allow
11 an unlimited number of workers to come in for an
12 unlimited amount of time without adequate labor market
13 protections. We certainly hope that those will not be
14 put in the context of Central America or Singapore or
15 Chile.

16 In terms of debt and finance, it's very
17 important that a trade agreement allow countries the
18 flexibility to regulate the flow of speculative
19 capital in order to protect their economies of the
20 kind of excessive volatility that has led to financial
21 crisis in Mexico and Argentina and now threatens
22 Brazil.

23 In addition, the agreement must address the

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1 possibility of massive currency devaluations, the
2 impact these devaluations have on fair competition in
3 the region. Any agreements should include debt relief
4 measures that will allow Central American countries to
5 adequately fund education, healthcare, infrastructure
6 needs, thereby contributing to closing the gap between
7 rich and poor within and between nations and
8 diminishing the financial instability caused by
9 mounting debt burdens. Finally, we would like to see
10 U.S. development assistance to the region increase
11 significantly.

12 In terms of investment we are strongly
13 opposed to NAFTA-style Chapter 11 provisions in the
14 Central American context. In terms of expropriation
15 we would like to see the provisions on expropriation
16 limited to direct expropriations of real property
17 and not simply to regulations that diminish an
18 investor's return.

19 We do believe trade agreements should rely
20 on government to government rather than investor to
21 state dispute resolution. All dispute resolution
22 mechanisms should be fully transparent and accessible
23 to interested member of the public.

1 On public services, any agreement with
2 Central America should contain a broad, explicit
3 carve-out for important public services, including
4 those provided on a commercial basis or in competition
5 with private providers. There should be no pressure
6 on governments to open their pension systems or other
7 public services to more private competition, or to
8 lock in private competition in those sectors.

9 Services rules should be negotiated sector
10 by sector, and should preserve the ability of
11 national, state, and local governments to regulate
12 private service providers in the public interest.

13 We are concerned that procurement rules not
14 restrict public policy aims-- legitimate public policy
15 aims as we are afraid that both NAFTA and WTO rules
16 have done.

17 On intellectual property rights, we think
18 it's essential that all parties should be able to take
19 full advantage of the flexibility available under the
20 WTO TRIPs agreement to compel the licensing of life-
21 saving pharmaceuticals in a public health crisis. We
22 would like to see that actually explicitly written
23 into any trade agreement with Central America and made

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1 very explicit.

2 Finally, democracy and transparency, we
3 commend the progress that has been made. We are glad
4 to see the release of the FTA text after Quito and we
5 hope that we will see the same kind of transparency in
6 these negotiations.

7 We also are interested in citizens of both
8 countries being able to see their own governments
9 negotiating positions at very timely intervals. We
10 hope that any kind of dispute resolution measures that
11 are put in place in the Central America Free Trade
12 Agreement will be open to the public.

13 I think that about sums up what I have to
14 say and I look forward to your questions.

15 CHAIRPERSON SURO-BREDIE: Thank you very
16 much.

17 Bud Clatanoff.

18 MR. CLATANOFF: Let me go back to the
19 beginning of your statement. You are looking for an
20 integration model based on strong domestic
21 institutions. We don't think those strong domestic
22 institutions are really there in all these countries,
23 to be honest. We know they're not. What can we do

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1 about that?

2 MS. LEE: Well, certainly the independent
3 trade unions could use some work. That's one of the
4 reasons why we put so much emphasis in the testimony
5 on the workers' right protections that to the extent
6 that some of the Central American governments have
7 chosen to compete internationally by weakening their
8 own trade unions by undermining them by establishing
9 export processing zones where workers' rights are not
10 fully respected, that undermines unions and it
11 undermines democracies.

12 I guess that is the starting point and one
13 of the ones that we think is most important. Maybe
14 you could be more clear about which institutions you
15 think are weak.

16 MR. CLATANOFF: I think the general rubric
17 is civil society including, I would say, the
18 Caribbean.

19 MS. LEE: Well, I guess our view is that the
20 way we go about negotiating a trade agreement ought to
21 be encouraging governments to listen to a broad
22 spectrum of civil society, and also be very open about
23 what kind of steps they are taking to negotiate a

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1 trade agreement so that people at least can have a
2 fighting chance to give their input to have their
3 views heard, to have a debate in the press about what
4 kind of integration agreement they want to see.

5 It's asking a lot, I think, from a trade
6 agreement to think that the trade agreement itself is
7 going to create institutions. I think all we can ask
8 is that the trade agreement be constructed in a way
9 which creates the space for unions or environmental
10 groups or a free press to be able to engage in a
11 public debate in a way which allows people to maybe
12 move towards more meaningful democratic participation.

13 Actually, if I could, I wanted to address
14 Bud's question from earlier about trade sanctions
15 hurting the workers and what we would do about that.
16 Is that all right?

17 CHAIRPERSON SURO-BREDIE: Yes.

18 MS. LEE: You said what do we do, let's say,
19 withdraw GSP benefits and the factory closes and the
20 workers have no jobs. I mean, obviously, I think, we
21 always hope in these cases that the threat of trade
22 sanctions itself will in most cases actually motivate
23 the government to take steps to ensure that a company

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1 comes into compliance.

2 The government can use a lot of tools to do
3 that. They can find companies or put people in jail
4 or do various other things. We would hope that would
5 be the motivating influence and that you wouldn't in
6 most cases actually come to the point of imposing
7 sanctions.

8 Really, if you look at enforcing domestic
9 labor laws you have the same problem. If you have a
10 wage and hour problem, if you have a sweatshop in
11 Chinatown in New York City, it may come to the point
12 where you have to actually close the factory because
13 you cannot get compliance to happen and then those
14 workers will lose their jobs.

15 That is unfortunate but sometimes I think
16 when you are enforcing a law, you have to accept that
17 you have a short-term cost to individuals because in
18 order to ensure that companies understand that there's
19 a financial cost and economic penalty to violating
20 whatever the regulations are. I guess I wouldn't see
21 that as something which was completely crippling.

22 It wouldn't be a reason never to consider
23 using trade sanctions. You try to design them in such

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1 a way that you ensure compliance as opposed to shut
2 things down. It may be that there are times in very
3 extreme cases where you don't really have any other
4 choice.

5 CHAIRPERSON SURO-BREDIE: I have a question.
6 You said in your testimony that not one Central
7 American country included in this proposal came close
8 to meeting the minimum threshold of respect for ILO
9 core labor standards. What countries in Latin America
10 do you think meet those minimum threshold now?

11 MS. LEE: Back to the experts on Latin
12 America. I guess I would want to get back to you on
13 that before I went on record. I'm certainly -- I
14 would say every country in the world has problems with
15 meeting core labor standards including the United
16 States of America.

17 Certainly I think the Central American
18 countries have been much more in the spotlight in
19 terms of violations than the GSP cases that have been
20 brought against the Central American countries show
21 that they've had a lot of significant problems. I
22 would say that Central American countries are bad even
23 by the standard of Latin America. I'll get back to

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1 you in terms of what we would consider countries that
2 are much closer to meeting ILO standards both in law
3 and practice.

4 CHAIRPERSON SURO-BREDIE: If you could send
5 that to GBLUE@USTR. I look forward to seeing it.

6 MS. LEE: Okay.

7 CHAIRPERSON SURO-BREDIE: Do you have other
8 questions? Betsy White, Department of Labor.

9 MS. WHITE: I guess you made the statement
10 that it would not be appropriate to have an agreement
11 that was based on the countries enforcing their own
12 labor laws because those countries sort of uniformly
13 did not have the labor laws. Could you expound on
14 that a little bit more as to where the deficiency of
15 the labor laws are? Is that in the written testimony?

16 MS. LEE: That is in the written testimony
17 with respect, I think, to each of the countries. I am
18 happy to talk about it a little bit.

19 MS. WHITE: Give us some flavor of it.

20 MS. LEE: Well, in Costa Rica, for example,
21 the labor code permits the formation of these
22 permanent workers' committees that are authorized to
23 present complaints or requests on behalf of the

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1 workforce but in practice which are controlled by the
2 employers. That is, I would say, in violation of the
3 ILO core labor standards. There has been an ILO case
4 against Costa Rica on that front in terms of this.

5 MS. WHITE: I also meant to ask as sort of
6 maybe the later part of the question was how would you
7 envision that we could address this problem of poor
8 laws in the context of the negotiations of the CAFTA
9 so that in the end the TPA requirement that you
10 enforce your laws would be meaningful?

11 MS. LEE: I guess a really first start would
12 be if there were requests from the Central American
13 governments to the ILO to send a technical team to do
14 the full assessment of the labor laws. That's what
15 the ILO is very good at, is coming up with the
16 shortcomings of comparing the legal code to the ILO
17 standards and to come up with a set of
18 recommendations. That would be a good start.

19 All these things take time and that's why I
20 think it's important that if the U.S. Government is
21 really serious about going ahead with the Central
22 American Free Trade Agreement, I would hope this is
23 already happening, that there are steps being taken to

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1 come up with a full set of recommendations from the
2 ILO and to have a dialogue with the government.

3 Certainly our preference would be that these
4 agreements not be entered into until the labor laws
5 have been brought up to ILO standards because there's
6 no mechanism within even the Jordan Free Trade
7 Agreement to actually fix deficient labor laws.
8 There's language that says countries should strive to
9 ensure that their laws meet ILO standards.

10 There is language that says they should
11 strive not to weaken those laws in order to increase
12 trade. The mechanism through which a country or a
13 time table or transition period through which
14 countries would actually fix those laws is not in
15 there. It wasn't in there because in the case of
16 Jordan we made a judgement -- the U.S. Government made
17 a judgement that Jordan's laws were close enough to
18 ILO standards.

19 There were no glaring deficiencies, but
20 since there are glaring deficiencies in the Central
21 America case, this seems like a very important piece
22 to fix ahead of time because it's so hard to fix in
23 the context of a trade agreement it ought to be fixed

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1 before entering into the trade agreement. Even then,
2 you know, our concern still is let's say the laws were
3 fixed and we entered into the trade agreement.

4 If the only enforceable obligation written
5 into the CAFTA is to enforce domestic laws, then
6 nothing really stops a country from fixing its laws,
7 entering into a trade agreement, and then eliminating
8 them the next day. I know in practice countries don't
9 do that and it would be a very unusual odd thing to
10 happen.

11 I guess my point is that in terms of public
12 policy why would you want to put in place a public
13 policy that requires countries to enforce their own
14 laws but doesn't actually require them to have any
15 laws.

16 If you think about in the intellectual
17 property context, it would be like saying to Honduras
18 you have to have good strong copyright laws and you
19 have to -- no, you have to enforce copyright laws but
20 you don't, in fact, have to have any copyright laws.
21 If you have trouble enforcing your laws, the best
22 thing you can do is just eliminate them. That's
23 really what we're saying with labor law.

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1 If the only enforceable obligation in the
2 Free Trade Agreement is to enforce your domestic labor
3 laws, then we are actually giving a perverse incentive
4 to countries to get rid of or weaken laws that they
5 have trouble enforcing. I don't think that makes any
6 sense. Certainly not in the context of Central
7 America where we have such extreme labor rights
8 problems.

9 CHAIRPERSON SURO-BREDIE: One more.

10 MR. FANTOZZI: I was just wondering what you
11 are referring to as core labor standards, ILO
12 internationally recognized standards, are these
13 standards which the Central American countries have
14 themselves accepted internationally?

15 MS. LEE: That's a good question. The
16 answer is yes. The Central American countries are all
17 members of the ILO. As members of the ILO they are
18 signatories to the declaration and fundamental
19 principles and rights at work from 1998 where all of
20 the members of the ILO irrespective of whether they
21 have ratified any core conventions or not have, in
22 fact, committed to respect, promote, and realize the
23 core workers rights that I laid out earlier.

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1 All Central American countries have made
2 this commitment, as has the United States so it's not
3 a new commitment and it's not an American commitment.
4 It's an international consensus and international
5 obligation.

6 Our view is that in the context of a Free
7 Trade Agreement, it is appropriate for the two sides
8 of a Free Trade Agreement to reinforce that commitment
9 and to agree that it is important enough that they are
10 willing to submit themselves to dispute resolution if,
11 in fact, there is violation of that obligation.

12 MS. ROE: You mentioned in the beginning
13 that your working cooperatively with other labor
14 organizations in the region on the development of an
15 integration model. I guess the question I would have
16 is do you see any evolution in what the chief labor
17 confederations or labor leaders of the region are
18 calling for in terms of have they stepped up to the
19 plate to actually communicate their commitment to have
20 enforceable labor provisions within the agreement.

21 To preface that question I'll just mention
22 that it has, as you know, been a sensitive issue. The
23 mantra of many of the developing countries, certainly

1 within the U.N. context, and others has been to claim
2 that pressing for strong labor provisions represents
3 a protection as moved by the developed countries. We
4 see some evolution away from that in terms of the
5 recent agreements with the FTAs but it's been a slow
6 process.

7 Even in the case of the Chile FTA, which is
8 still being negotiated, I gather that at least from
9 what the Chilean government tells us publicly, the
10 preference of the trade union confederation would have
11 been more of the kind of agreement that Chile
12 negotiated with Canada which had no real teeth on the
13 labor provisions.

14 Of course, Costa Rica has taken that
15 position publicly in saying that the agreement they
16 negotiated with Canada, which also has no recognizable
17 teeth that we can see, would be the model. I'm just
18 wondering how this is playing out within the labor
19 movements of the region and whether you see changes?

20 MS. LEE: That's a very good question. In
21 fact, we've had some really good, interesting
22 discussions with the Central American unions. I would
23 say whenever we bring one of the GSP workers' rights

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1 cases, we do work, of course, with the union in that
2 country.

3 The Central American unions are among those
4 in the world who have used this GSP provision most
5 effectively and they feel that it is a valuable tool
6 for them. We do have this declaration we've been
7 working on which is just about, I think, almost final
8 with the Central American unions where they don't want
9 to lose the leverage of the GSP workers' rights
10 provisions.

11 I think it's really important because there
12 are a lot of other regions where these tools are
13 available but they haven't, in fact, been used so
14 there's a fear of using the tools, that it could be
15 protectionism or it could be somehow used against the
16 country.

17 Especially, I think, in the case of Central
18 America where the unions have been treated so badly by
19 their own governments in many cases, or treated badly
20 by companies would be neglect of their own
21 governments. These unions feel that they need the
22 additional leverage that comes from the threat of
23 losing the GSP benefits or the CBPTA benefits. It has

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1 actually been helpful.

2 Even in the Chile case, you know, we have a
3 joint declaration with the Chilean trade union central
4 there, as well, where we do call for, and they have
5 agreed to, and we agreed to enforceable workers'
6 rights and the core of the trade agreement.

7 They are close to their government and the
8 government has a strong preference for the
9 Canada/Chile approach and that's often been the case.
10 We do see certainly among the trade unions a very
11 different view than you see from the governments
12 themselves and more of a recognition of the value of
13 these provisions.

14 CHAIRPERSON SURO-BREDIE: Before we ask
15 another question, I think we have to say goodbye.
16 Thank you very much.

17 Our next witness is Taleigh Smith,
18 Coordinator, Upper Westside Tippitapa Sister City
19 Project.

20 MS. SMITH: I'm Taleigh Smith. I coordinate
21 a Sister City Project between the upper westside of
22 New York and Tippitapa, Nicaragua. I want to start by
23 saying I'm very conscious of the privilege that I have

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1 to sit before you today to talk about the CAFTA
2 because I am very aware that there are hundreds of
3 thousands of people who would like to be doing the
4 very same thing.

5 Honestly I wish that you could have joined
6 me for lunch because I went down the street and had a
7 meeting with people organizing on a grassroots level
8 against CAFTA. They were talking about a number of
9 things but I just wanted to share a couple with you
10 since they are not able to be here and you were not
11 there.

12 No. 1 is that as far as democratic
13 processing of these treaties, the questions that are
14 asked of the people being affected look more like,
15 "Where would you like this road?" rather than, "How
16 would you envision development in your community?" I
17 think that is fundamental when we're talking about
18 negotiating free trade is what kind of questions we
19 are actually asking.

20 No. 2 is that small clothing and shoe
21 industries in Guatemala and throughout Central America
22 are already disappearing without the resources to
23 compete. I thought that was interesting given that we

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1 were hearing from apparel industries earlier today.

2 No. 3 is that there's more economic refugees
3 than ever before even during the civil wars that
4 rocked these countries during the '80s. When we look
5 at who is benefitting from them, they obviously aren't
6 any of the people having to leave their country to
7 find employment.

8 No. 4 is that people organizing against
9 these agreements are facing death threats and
10 harassment. They are being followed. They are being
11 called in their homes and there is violent repression
12 in the streets as people are mobilizing against these
13 effects that are already taking place. Even though
14 the treaties aren't signed, a lot of these policies
15 are taking place.

16 The last one is that the military occupation
17 in the region that you asked about earlier is actually
18 keeping people, specifically people organizing against
19 these movements, are being kept from going from city
20 to city and there's a lot of occupation. When you
21 look at a map of U.S. and foreign investment in
22 regions such as Tippiapa and you look at where the
23 military bases are, there are superimposed on each

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1 other. That's from the people down the street.

2 Talking about coordinating a Sister City
3 Project, linking New York with Tippitapa, Nicaragua,
4 this means a lot of things but one central part is
5 recognizing that globalization is not just the global
6 economy. It's also recognizing our global connections
7 as human beings. It's about listening to each other's
8 stories, recognizing ways in which we are connected,
9 and working to base those connections on the solid
10 values of peace, economic justice, and democracy.

11 For 15 years the Sister City Project has
12 been introducing New Yorkers and Nicaraguans to each
13 other. These relationships offer perspective that is
14 rarely heard in the media or in official governmental
15 documents justifying regional policy.

16 We knew the contra war was happening even
17 when the U.S. Government said it wasn't. Now we are
18 hearing and seeing the devastating effects of free
19 trade, a policy we have been told will bring democracy
20 and prosperity to the region.

21 Tippitapans are experts on free trade. The
22 free trade zone is on the edge of Tippitapa and
23 provides employment to over 13,000 residents, 10

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1 percent of Tippitapa. Employment sounds very
2 appealing in Nicaragua where un and under employment
3 hovers around 70 percent. But that's where hearing
4 people's stories is key to getting past rhetoric.

5 When we visit Tippitapa we hear about the
6 exploitative conditions, gender and age
7 discrimination, verbal and physical abuse by
8 supervisors, sexual harassment, and the systematic
9 destruction of unions by firing and blacklisting
10 anyone who tries to organize. Finally, what working
11 six days a week, 12 hours a day for a nonlivable wage
12 will do to your body, your relationships, and to your
13 children.

14 One mother of a child in a sister city
15 sponsored feeding center told me about how she worked
16 from age 15 to age 22 in one of these sweatshops. She
17 finally quit because she was unable to take care of
18 her daughter. As she infatically encouraged us to
19 continue mobilizing against free trade zones, she said
20 she would rather die than allow her daughter to grow
21 up and work within one.

22 When the mother of a malnourished preschool
23 child tells you this you listen. But the Sister City

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1 Project can't provide food to all of the children of
2 free trade zone workers. The incidents of street
3 children and glue sniffers in the area is 30 times
4 higher than it was before U.S. military intervention.

5 As the majority of workers are young, single
6 mothers without the financial resources for daycare or
7 school matriculation fees, children are left to their
8 own devices.

9 I don't know if any U.S. trade
10 representative has spent time with street children but
11 I have. I was a volunteer social worker with street
12 kids in Nicaragua for almost three years. You may be
13 able to argue that a free trade zone worker is a
14 grownup who can decide for themselves if they want to
15 accept the working conditions.

16 But nobody can argue that an eight-year-old
17 who depends on sniffing toxic glue to quell hunger
18 pains and sells his body for a place to sleep can
19 choose to accept or reject conditions of free trade
20 while his mother works all day and is not paid enough
21 to send him to school and put food on his plate.

22 The U.S. must take responsibility for the
23 poverty we have helped to create and maintain.

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1 Children cannot be left to fend for themselves in a
2 global economy set up to benefit powerful corporate
3 interest.

4 I know this hearing is about CAFTA but our
5 partners in Tippetapa along with hundreds and
6 thousands of Latin Americans and our very own U.S.
7 Government are very clear that there is a region-wide
8 agenda that is being pushed through in a series of
9 small agreements.

10 What we hope this hearing will make clear is
11 that there is also a region-wide rejection of this
12 agenda whether it be under the names of CAFTA, NAFTA,
13 the FTAA, or the PPP. This July two of our sister
14 city contacts in Tippetapa attended the third American
15 forum against the PPP with over 1,000 representatives
16 from civil society who unanimously rejected the PPP
17 and its plans to prepare Nicaragua for CAFTA.

18 They know that a pipeline stretching from
19 the Caribbean coast to the Pacific would reach havoc
20 on the ecosystem and put their economy and military at
21 the disposal of U.S. interests. They know that high
22 speed rails slicing through rainforests interrupting
23 ecosystems, displacing farmers, and devastating the

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1 local economy and culture will not facilitate
2 Nicaragua's development.

3 As they struggled through a civil war in the
4 '80s, they learned that a government must act for the
5 greater good and with respect to the rights of all of
6 its people. They know that proposed deep water ports
7 carved out of traditional fishing bays without
8 permission or benefit for the thousands of indigenous
9 people who live in these regions under autonomous
10 leadership will destroy Nicaragua's democratic
11 process. When economists justify free trade, they use
12 terms like comparative advantage.

13 Propliance of the PPP and CAFTA identify
14 these qualifies as location close to the United States
15 and abundance of cheap labor available around
16 materials and lacks enforcement of labor and
17 environmental laws, as well as the desperate indebted
18 governments ready to sacrifice local human development
19 for the propose of loans and investment.

20 For those os us who know and love Central
21 America recognize other qualities such as its natural
22 beauty, cultural riches, and tradition. Those of us
23 who know and love Central America are dedicated to

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1 created an global community that benefits all of its
2 inhabitants and doesn't allow economic jargon to blind
3 us to starving children and the violence of the
4 masses.

5 We are not against globalization but we are
6 against globalized oppression whether it be in the
7 name of free trade or other. The U.S. should use its
8 power to globalize peace, economic, justice, and
9 democracy because if it doesn't, the globalized
10 resistance will.

11 Thank you.

12 CHAIRPERSON SURO-BREDIE: Department of
13 Treasury.

14 MS. SANMIGUEL: When you started, you said
15 that perhaps we were asking the wrong questions. I'm
16 wondering what exactly you suggest if free trade is
17 not an beneficial as economists and people believe?

18 MS. SMITH: I would say that we need to go
19 back to the drawing board. That these process have
20 not been asking the people that actually are being
21 affected by the policies. They are asking very few
22 people. The CAFTA text hasn't even been available to
23 us here in the U.S., or isn't in existence yet.

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1 Democratic space doesn't exist to discuss
2 these policies right now. Even here with the U.S. on
3 fast track and so forth, I mean, like the people here
4 this is our only opportunity to have our voices heard
5 to my knowledge. We don't have access to our
6 representatives anymore since they don't have access
7 to negotiations.

8 In Central America they don't even have
9 this. I would say the first thing we need to do is
10 listen. I haven't spoken to a Nicaraguan who doesn't
11 have extensive ideas on what development could look
12 like down there. They haven't been given the chance
13 to talk about it. Does that answer your question?

14 MS. SANMIGUEL: I guess I want a more
15 specific sort of view of what that development does
16 look like.

17 MS. SMITH: I think that we would be
18 thrilled to give you more specific ideas if indeed
19 they would be taken to the table for negotiations. I
20 think that this process needs to be opened up not just
21 to those of us in this room being asked for
22 clarification but to a much larger population. I
23 would love to get back to you with very specific

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1 suggestions from Tippetans if you are interested.

2 CHAIRPERSON SURO-BREDIE: Do you know how to
3 get back to us through Gloria Blue?

4 MS. SMITH: I do have Gloria Blue's e-mail.

5 CHAIRPERSON SURO-BREDIE: Thank you.

6 MR. FANTOZZI: Yes. I wonder if you could
7 tell us if you have given some thought to what sort of
8 trade policies would achieve the kind of globalization
9 that you are talking about? In other words, how can
10 trade be used as a tool for beneficial globalization
11 rather than what you see as happening now?

12 MS. SMITH: I think that when, at least, I
13 look at U.S. policy right now, we base most of our
14 policy on economic pressure on regions including right
15 now, for instance, these highly indicted countries are
16 being asked -- this actually refers back to earlier
17 comments on privatization, whether or not they are
18 included in the Free Trade Agreements countries are
19 being pressured to privatize and spend their loan
20 money on facilitating in international investment
21 instead of taking care of social security within their
22 countries that actually are legally provided for
23 within the local governments.

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1 Am I making any sense? For instance, the
2 Nicaraguan constitution guarantees healthcare and
3 education all the way through university level. They
4 are unable to take care of their people in the way
5 that constitution says they should. They could get
6 loans in order to do those kind of things but they are
7 stipulated by international financial institutions
8 that loans are to be used to facilitate international
9 investment and not to take care of social services.

10 Going back to your question, trade policy,
11 I think that we should use things like economic
12 pressure and trade policy to facilitate development
13 that is not just about benefitting corporations. It's
14 talking about education. It's talking about house
15 standards. It's talking about environmental
16 standards.

17 It's talking about the value that you and I
18 as Americans say that we believe in as far as
19 democratic process and peace and things like that. I
20 think the whole entire focus needs to be shifted away
21 from just benefitting certain companies and
22 facilitating their rapid investment in the region and
23 their rapid extraction of resources to actual sound

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1 development policy.

2 I think that you can use sanctions. I think
3 that you can use the same enforcement structures that
4 exist to make sure that they are not charged taxes for
5 the investment could be used to encourage investment
6 in the region socially, for instance.

7 MR. FANTOZZI: Thank you.

8 CHAIRPERSON SURO-BREDIE: There's one more
9 question.

10 MS. WHITE: I have a question about the
11 number of the witnesses have talked about the need for
12 dialogue with civil society in these countries and the
13 new ways and the kinds of things they would raise.
14 What do you see as the impediments to dialogue within
15 these countries and what could the U.S. Government do
16 to improve it?

17 We have an elaborate structure here even
18 though you have said that you are only here for this
19 hearing, but compared to these other countries, this
20 is pretty good. What kinds of things and how would
21 you go about having us help you promote dialogue?

22 MS. SMITH: I think fundamental to any
23 negotiations you have to step another whole step

1 backwards. When you ask people who are starving,
2 people who don't have homes, people who can't send
3 their children to school because their public schools
4 have been privatized or atonomized, when you ask them
5 to sit down and negotiate with you, there isn't any
6 kind of equal playing field. I think that massive
7 investment needs to be done in the social services
8 before we could even ask for a equal dialogue on
9 things like trade policy.

10 MS. WHITE: I'm not suggesting an equal
11 dialogue. I'm suggesting a way for people within this
12 countries to have dialogue with their own governments.
13 You think you need to deal with all those basic
14 problems first or is there some way you could create
15 structures or mechanisms within the countries so that
16 these people could be heard in their countries?

17 MS. SMITH: I think that we could
18 simultaneously and economically invest in supporting
19 the social infrastructure in a country while putting
20 requirements on civil society participation and
21 negotiation practices. I think right now, for
22 instance, to just have closed door meetings with trade
23 ministers is not encouraging civil society or

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1 democratic process. In fact, I believe Quito is the
2 first time ever that the public was allowed in and
3 that was only after being teargassed and harassed in
4 the streets. That's not true?

5 MS. WHITE: The Canadians did sponsor a
6 civil society forum as well as a business forum and a
7 number of the trade ministers did go to both and heard
8 views of civil society. I think it was Toronto.
9 Anyway, it is a limited kind of thing.

10 MS. SMITH: I would say that would need to
11 be expanded. Maybe we could follow the Canadians'
12 example. I don't know what it looked like but --

13 CHAIRPERSON SURO-BREDIE: Thank you very
14 much.

15 MS. SMITH: Sure. Thank you.

16 CHAIRPERSON SURO-BREDIE: Our last witness
17 if Patricia Forner, World Vision, Public Policy
18 Advisor for Latin America and the Caribbean.

19 MS. FORNER: Thank you very much for this
20 opportunity to come before you. I realize that
21 you've been here all day and you must be exhausted so
22 I'll just do a brief form of my remarks rather than
23 reading the entire paper.

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1 I'm going to address issues of transparency,
2 relations among the partners and CAFTA, making CAFTA
3 coherent with development policies and how to bring
4 some justice to the policy.

5 World Vision strongly recommends that the
6 negotiations for CAFTA be conducted within a framework
7 that does not work toward achieving a predetermined
8 outcome by the United States. We strongly urge that
9 consultations occur throughout the process with groups
10 from civil society sectors from each of the five
11 countries who could weigh in on micro-enterprise,
12 agriculture, and affected services among other things.

13 Trade is widely touted in some circles as
14 the economic tide that is going to lift all boats.
15 However, it's our experience at World Vision that the
16 reform of domestic policy economic institutions in
17 developing countries has a far greater affect on
18 improving the economic well-being of its citizens and
19 trade.

20 There is no substitution for sound national
21 policies and governments of developing countries.
22 What is missing in Central America are just policies
23 that promote equitable land reform, the freedom of

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1 workers to organize a functioning tax collection
2 system that could finance public works and social
3 development such as public health and public
4 education, and public security.

5 Coupled with a marked reduction in
6 corruption, all these would distribute social and
7 economic benefits far more equitably to the citizens
8 of Central America than CAFTA can.

9 On the issue of transparency because of the
10 existing and strong ties between corporate business
11 and elected officials both in our country and in
12 Central America greater transparency would lend more
13 credibility to the CAFTA negotiations. We all
14 understand that trade law translates into market share
15 and profits.

16 Therefore, World Vision recommends that all
17 ministries of trade involved in CAFTA negotiations and
18 members of the International Trade Council and other
19 officials involved in the process complete public
20 financial disclosure forms identical to those issued
21 by the Office of Government Ethics to U.S.
22 presidential appointees and other high-ranking U.S.
23 officials. Public financial disclosures from CAFTA

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1 negotiators should be displayed on and accessible
2 through the USTR website in both English and Spanish.

3 Over the past decade U.S. food and
4 agricultural imports to Central America has reduced
5 the demand for food grown in the region, lowered food
6 prices, and lowered incomes and impacted unemployment
7 among the rural poor.

8 Maquilas provide jobs primarily to
9 unemployed women but with the discovery of large
10 untapped labor pool for lower wages, some
11 multinationals are closing their maquilas and
12 relocating them to South Asia.

13 So safety nets for dislocated industrial and
14 agricultural workers are nonexistent in Central
15 America and the job market is far from robust.
16 Immigration, legal or otherwise, continues to pour
17 across our border and also into some European cities.
18 How can we make this trade policy from CAFTA be
19 coherent with development policy?

20 Among the five countries slated to
21 participate in CAFTA, Honduras and Nicaragua are
22 candidates for the World Bank's poverty reduction
23 strategy paper processing program.

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1 We all know that U.S. aid post its
2 development assistance programs for each country on
3 its website. Poverty alleviation, economic growth,
4 and democracy building are all long-term development
5 goals of these donor agencies. Trade policies through
6 CAFTA should be crafted to compliment U.S. long-term
7 development strategies for the region.

8 What is in the region in terms of American
9 interest are U.S. parented multinationals. Although
10 these multinationals do provide employment, working
11 conditions on some of their plantations and in their
12 maquilas are dismal even by local standards.

13 So multinational corporations that operate
14 in Central America minimize their risk through
15 preferential treatment and insurance that as we move
16 forward to construct just trading policies through
17 CAFTA, we should reframe from providing foreign-owned
18 multi-national companies the power that could
19 unwittingly punish the poor in Central America by
20 depriving their governments of revenues sorely needed
21 for social and economic development.

22 Some of the trappings of NAFTA's Chapter 11
23 on investments should have no place in CAFTA, nor in

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1 any other U.S. trade agreement with a developing
2 country.

3 While the IMF and the Inter-American
4 Development Bank provide capital in the form of loans
5 to Central American countries, it would be helpful if
6 these institutions could amend their paradigm of bank
7 to government assistance to work with proven,
8 responsible, nongovernmental local and international
9 organizations to develop a safety net system for
10 Central American dislocated workers from industry and
11 agriculture. This could serve in lieu of trade
12 adjustment assistance that Central American
13 governments lack.

14 Is there a place for just policies in CAFTA?
15 Technical assistance for developing countries to build
16 their trade negotiation capacity is currently
17 available through international donors. While this
18 sounds like the solution to the problem for
19 disadvantaged negotiators, it must be noted that the
20 United States goes to the negotiating table with
21 experienced trade and investment attorneys and then
22 only after scores of sector specialists have examined
23 and analyzed all the nuances.

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1 This is the environment in which we prepare
2 and go to the negotiations with lesser developed
3 countries. It's more than a challenge for Central
4 American countries to go up against the vehement of an
5 advantaged U.S. at the negotiating table.

6 Is it realistic to think that after capacity
7 training for trade negotiations that they will have
8 the same capacity as we do? I don't think so and
9 that's probably not what we intend. But, on the other
10 hand, rules that everyone can live by and agree to can
11 be an advantage for both the U.S. and Central American
12 countries.

13 This can only be achieved in an atmosphere
14 of transparency when more than special interest of the
15 traders are brought to the table. It will be
16 necessary to put limits on self interest and the
17 limits will depend on the context of those
18 negotiations.

19 Negotiations should take into consideration
20 what the moral values are that need to be protected.
21 Trade negotiations generally focus on protecting goods
22 in certain classes of industries. To create just
23 policies we must shift the paradigm away from

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1 classifying goods and industrial sectors to agree on
2 roles that prevent particular self interest that
3 caused the most harm. When negotiating with Central
4 American countries the U.S. is negotiating with a host
5 of different cultural traditions.

6 It behooves us to understand those
7 differences, to make compromises, and to prevent
8 abuses that self interest would cause. For example,
9 in the area of biodiversity, traditional knowledge,
10 and native medicinal and agricultural products.

11 The rules of CAFTA could also reflect the
12 global concern for the environment. Large national
13 and international agribusiness plants in both the U.S.
14 and in Central America should adhere to stronger
15 process standards. The rules for CAFTA need to be
16 shaped by sustainability, not greater environmental
17 exploitation and degradation.

18 Perhaps instead of focusing solely on free
19 trade there is a greater need to decide on what sort
20 of a framework of limitations or restrictions is
21 necessary in order to legitimize morally the assertion
22 of self interest on the part of individuals and
23 corporations in international trade and investment.

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1 It will require a cooperative effort on the
2 part of trade negotiators, parliamentarians, and civil
3 society working together to develop a framework that
4 has the welfare of Central American's poor in mind and
5 that promotes sustainability, includes labor
6 standards, respects cultural identity and human
7 rights. All of these concerns should influence and
8 impact the rules and regulations of CAFTA in diverse.

9 Thank you very much. I look forward to your
10 questions.

11 CHAIRPERSON SURO-BREDIE: The Treasury
12 Department.

13 MS. SANMIGUEL: I have two questions. The
14 first is in your summary you mention a framework of
15 limitations. You list several things here and I'm
16 wondering if you could elaborate on that a bit
17 further, what that framework might really look like.

18 MS. FORNER: Well, as I mentioned, because
19 of the culture diversity and also because of the
20 situation in Central America is so different from ours
21 economically so I think the limitations should take
22 into consideration that we are trying to have a trade
23 agreement with five very small countries whose

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1 combined GDP is probably smaller than some of the TNCs
2 and multi-nationals that actually operate there.

3 Keeping that in mind, those are the
4 limitations that I'm looking at in terms of the
5 countries themselves and what we are bringing to the
6 table to negotiate with them. Also keeping in mind
7 that whatever we do, how is that going to impact the
8 people of those countries.

9 MS. SANMIGUEL: Are there any provisions or
10 anything that we can do in what we bring to the table
11 that we should take into consideration?

12 MS. FORNER: We the United States?

13 MS. SANMIGUEL: Um-hum.

14 MS. FORNER: Yes. I think that I had
15 mentioned that, for example, when we deal in the
16 negotiations that we could actually open them up to a
17 wide variety of people within the region. Right now,
18 for example, my national director in El Salvador is
19 telling me that there are consults and that the
20 consults are really only with the main producers or
21 the large industries.

22 They are not with people who are working in
23 micro-enterprise. They are not with people working in

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1 the medium and small production area of agriculture.
2 They are not working with people who are working in
3 services. I note that you had mentioned something
4 about services include financial services.

5 It's not just always public health or
6 education. I would like to see the trade negotiators
7 actually include these people in the process on a
8 regular basis so throughout this year that we have,
9 this year window, that there is a constant
10 conversation and dialogue going on.

11 They might actually bring you some vision
12 that you may not already have in terms of how CAFTA
13 can work and actually be coherent with their
14 development design for their country and their
15 national budget.

16 MS. SANMIGUEL: Thank you.

17 CHAIRPERSON SURO-BREDIE: Thank you very,
18 very much.

19 This hearing is adjourned.

20 (Whereupon, at 5:00 the hearing was
21 adjourned.)
22
23

